





Class F 121

Book .H8

A
BRIEF SKETCH,
OF
MARYLAND,

ITS GEOGRAPHY, BOUNDARIES, HISTORY
GOVERNMENT, LEGISLATION, INTER-
NAL IMPROVEMENTS, &c.

By Jeremiah Hughes.

PRINTED
FOR THE PUBLISHER.

1845.

A faint, circular library stamp is visible in the bottom right corner of the page, partially overlapping the date. The text within the stamp is mostly illegible but appears to include "MAY 17 1845".



C O N T E N T S .

GEOGRAPHY.

CHAPTER I—Name—Situation—Boundary—
Extent—Population, pp. 1

CHAPTER II—Natural Divisions—Bays—Riv-
ers—Mountains—Islands—
Swamps—Face of the Country
Mineralogy &c. pp. 5

BOUNDARIES.

CHAPTER I—Of the grant of the Charter and
Controversies as to the Limits
of the State. pp. 5

THE PROPRIETARY GOVERNMENT.

CHAPTER I—Of the Nature of the Proprietary
Government and Right of the
Proprietary of Maryland. pp. 43

CHAPTER II—Of the Personal Rights and
Revenue of the Proprietary
pp. 60

CHAPTER III—Of the Proprietaries of Mary-
land. pp. 69

General History.

CHAPTER I—A sketch of the History of the State. pp. 76

FIRST ERA—From the Colonization to the Expulsion of James O. pp. 77

SECOND ERA—From this expulsion to the restoration of the Proprietary Government in 1715. pp. 84

THIRD ERA—From 1715 to the treaty of Paris in 1763. pp. 87

REVOLUTIONARY ERA—Containing the proceedings during the American Revolution. pp. 89

And also the same continued, together with the

FORMATION OF THE STATE GOVERNMENT. pp. 95

LEGISLATION.

CHAPTER I—The Common and Statute Laws, pp. 104

CHAPTER II—Legislation in Maryland pp. 111

UNITED STATES GOVERNMENT.

CHAPTER I—Formation of the United States Government, and connexion of Maryland therewith. pp. 119

STATE GOVERNMENT.

CHAPTER I—The Laws—Declaration of Rights—Constitution—Origin

of the Law-making power—Nature of the Charter—Origin of the Declaration of Rights, and its connexion with and relation to the Constitution. pp. 127

[NOTE—*Books.*] pp. 148

CHAPTER II—Right of Suffrage—Eligibility to office—Declaration of Religious Belief—Oaths of Office. pp. 154

MISCELLANEOUS.

CHAPTER I—The Revolution of 1836.—Its causes, and history.—The eight million Bill. pp. 188

II—The Reform Bill of 1836-7.—The nature and substance of this bill. pp. 199
The first Election under the Reform Bill and the arrangement of the Districts, Gubernatorial & Senatorial. pp. 267

III—History of the Internal Improvement System.—Length & cost of construction. pp. 210

IV—The Maryland Judiciary. pp. 228

V—Education and its support.—

The Academical Fund—The
Free School Fund—Colleges
Schools &c. pp. 234

VI—Statistics—Census of the State
pp. 241

VII—Colored Population—Their
numbers and increase—Ulti-
mate object and the progress of
Colonization. pp. 244

VIII—Trades and employments—
number engaged in the differ-
ent. pp. 254

IX—Assessments—Valuation of the
whole property of the State.
pp. 255



MARYLAND.

GENERAL REMARKS.

CHAPTER I.

NAME, SITUATION, BOUNDARY, EXTENT,
POPULATION.

Name.—CRESCENTIA, was the name Lord Baltimore intended to have given to the Territory granted to him by King Charles I. but upon presenting the patent for the royal signature, by way of compliment, the king was asked to name the new province; whereupon, he had the blanks left for the purpose, filled with Terra Maria, or MARYLAND, in honor of his wife Henrietta Maria, daughter of Henry the Great, King of France and Navarre. Previous to this grant it was considered as part of Virginia.

SITUATION.—The State of Maryland is situated between 38 degrees, and 39 degrees 44 minutes North latitude, and 75 deg. 10 min. and 79 deg. 20 min. West longitude from Greenwich.

BOUNDARY.—It is bounded on the north by Pennsylvania and Delaware—on the west, south-west and south by Virginia—on the east by the Atlantic ocean and the state of Delaware.

EXTENT.—It is 196 miles in length from east to west upon its north boundary line; but from the north west to the south eastern extremities of the state, is 240 miles. Its greatest width is near the eastern boundary of the state, where it is 120 miles and diminishes to its narrowest near Hancock, where the state is but three miles wide; it then again increases so as to be 40 miles on its western boundary. The superficies of the state is 13,950 square miles, of which nearly one fifth is estimated to be water.

Let us here take a general and compendious glance at the population of the State:—

POPULATION.—The first emigration to Maryland from Europe was in 1634.

In 1665, the population had reached nearly 16,000.

In 1734, there were about 36,000 "taxables." In 1755, there were 55,319 free white males, 49,908 free white females, 1,574 male convicts, 407 female convicts, 3,592 mulattoes, 42,764 negro slaves—Total 153,564.

In 1790, there were 208,649 whites, 103,036 slaves, 8,043 free blacks—Total 319,728.

In 1800, there were 221,998 whites, 107,707 slaves, 19,987 free blacks—Total 349,692.

In 1810, there were 235,117 whites, 111,502 slaves, 33,927 free blacks—Total 380,546.

In 1820, there were 131,743 males, 128,479 females, 260,222 whites, 107,398 slaves, 39,730 free blacks—Total 407,350

Of the latter number, there were 79,135 represented to be engaged in agriculture; 18,640 in manufactures and 4,771 in commercial pursuits.

In 1830 there were 291,108 whites, 102,994 slaves, 52,938 free blacks—Total 447,040.

In 1840 there were 316,544 whites, 89,736 slaves, 61,837 free blacks—

Total 468,117.

The increase of population from 1790 to 1820, was, during the ten years, from 1790 to 1800, 13,349 whites, 16,615 blacks, free blacks 11,944, slaves 4,671—Total 29,964.

During the second ten years 13,119 whites, free blacks 3,795, slaves 13,940; together 17,735 blacks—Total 30,854.

During the third ten years 25,105 whites, free blacks 5,803. Deduct number of slaves diminished the first ten years 4,204; 1,599—Total 26,704.

The increase of the whites during this fifty years was 112,595; of free colored 51,794, while slaves diminished 12,900.

CHAPTER II.

NATURAL DIVISIONS—BAYS—RIVERS—
MOUNTAINS—ISLANDS—SWAMPS—
FACE OF THE COUNTRY—MINERAL-
OGY.

Natural Divisions.—The great Chesapeake Bay making up through the middle of the state from north to south, elongated by the Susquehanna river, divides it into two parts, familiarly termed the *Eastern Shore* and the *Western Shore*. The Eastern Shore contains about one third of the superficies of the state. The relative population of the two shores, were,

	<i>W. Shore.</i>	<i>E. Shore.</i>
In 1790	212,089	107,638
1800	237,156	112,536
1810	263,435	117,121
1820	291,711	115,639
1830	327,548	119,492
1840	350,745	117,382

Within the above period, the principal increase of the population of the state has been concentrated in the city of Baltimore, which swelled in the fifty years, from a population of 13,

503 to 102,313 souls. By abstracting this number from the population of the counties it will be found that the Eastern Shore counties were for some time not very far short of the same ratio of increase with the counties of the Western Shore. The increase of the former amounting to 8,289, and the latter only to 30,386 between the years 1790 and 1820; but from 1820 to 1840 the Eastern Shore increased only 1,743, and the western, without Baltimore, 19,459. From 1820 to 1840 Baltimore increased 39,575 swelling its population to 102,313 by the census of 1840.

Bays and Rivers.—The natural advantages of Maryland, for commercial purposes, are of the first order. Her own sea coast indeed is of inconsiderable extent, and possesses no inlet inviting the entrance of shipping for trade. The Sinepuxen bay, stretching between the capes of Delaware and those of Virginia, is merely a channel between the eastern coast and a succession of sands and islands. The sea coast of Virginia and Maryland, taken together, being open the whole year, having regular soundings, all its length, with good anchorage outside of the capes, has justly

been pronounced one of "the safest, evenest and boldest coasts in the universe."

The *Chesapeake Bay*, which makes in of 61 leagues South the Maryland line, affords an entrance between Cape Charles and Cape Henry, familiarly called the capes of Virginia, nearly five leagues across, which width is increased within as the bay takes a northernly direction, extending two hundred miles up the country—seventy-five of which is in the state of Virginia, and the remainder divides the state of Maryland near its centre. This bay affords a good anchorage every where, and many excellent harbors where shipping may ride in safety, protected from every wind that blows. Innumerable streams of fine navigable waters branch out on either side, penetrating the country in every direction, besides several noble rivers taking their rise at the base of the Alleghany ridge, or near the northern lakes, and flowing from those elevated countries, through many a fertile valley, to this great reservoir which might almost be termed an inland Sea, which varies from 7 to 18 miles in breadth, and covers about 2600 square

miles, or 1,700,000 acres. It is generally as much as nine fathoms deep.—For fifty miles up the Potomac, that river is but an arm of the Chesapeake. The mouths of all the rivers making from the bay into either shore, are of the same character. The Patapsco, Maggothy, Severn, South River, West River, St. Mary's and York Rivers, on the Western Shore. The Pokamoke, Wycomoco, Chester, Sasafrass, Elk, and North-East Rivers, on the Eastern Shore, have comparatively trifling streams making in at their heads. Their tide and depth is from the Chesapeake, of which all of them are but inlets.

The *Susquehanna River* furnishes a greater tribute of fresh water to the ocean than any Atlantic river within the United States. The distance from its source to its mouth, is about 400 miles. Its most remote sources are in the lakes Otsego and Otego, in the western part of New York, fifteen counties of which state are intersected by its branches. That enterprising state has already made surveys with a view of connecting these waters by canals with their great commercial empo-

rium. To the north, the sources of the Susquehanna approach very near the waters of Lake Ontario, with which and through it, with all the great northern Lakes, they might be easily connected. Westward, its sources are in the Allegany mountains, and approach very near the Allegany river, to which Pennsylvania, with steady and certain march of improvement, has constructed communications reaching to the great western valley of the Mississippi on one hand, and to her capitol, by the Union Canal and Schuylkill river, on the other. The Susquehanna may be pronounced the great artery of the populous and fertile state of Pennsylvania, from two thirds of the surface, and twenty eight of the counties of which, its waters descend and concentrating before they reach Maryland flow into the head of the Chesapeake bay, 16 miles within the boundaries of the state, with so ample a volumn of water, that some topographers have contended that the Bay itself was but a continuation of the river Susquehanna. Much of the products of the extensive country watered by this river are brought on its floods or by canal t

the emporium of Maryland; but the difficulties presented by its rapids obstruct a return of trade. Artificial courses have been made to some extent but the state of Maryland, it is feared, is looking on with too much indifference, whilst her more industrious neighbors are cutting off, by turnpikes, canals, and railroads, the vast advantages which nature had so kindly directed into her bosom.

Tide water ascends the Susquehanna only a few miles above the mouth of the river, and terminates at Port Deposit, ten miles below the Maryland line.—Here a succession of rapids commence which continue to interrupt the ascending navigation for nearly fifty miles to Columbia. The descent in that distance is estimated at one hundred and forty feet, and the navigation is practicable only during high freshets. Twenty miles above Columbia are the Conawago Falls, around which, a canal has been dug, one mile in length. From these Falls the ascending navigation improves and meets no serious obstacle for batteaux, up to the Otsego and Otego Lakes in New York.

The value of the descending trade of the Susquehanna in 1822, was estima-

ted at one million, one hundred and sixty-eight thousand, nine hundred and fifty four dollars.

During the months of March and April, 1826, there passed Marietta, a village four miles above Columbia, 65 keel boats, 895 rafts, and 813 arks, which at a moderate estimate was valued at 1,100,000 dollars.

The Tide Water Canal which got into operation in 1840 now gives the State of Maryland a share of the trade of this region.

The *Potomac River*, rising at the eastern base, and rushing between ridges of the Alleghany mountains, thence as it were, breaking through the blue ridge and South mountains, flows in a rapid stream into the Chesapeake, 105 miles below the head of that bay. This river, from its source to the mouth, is the south west boundary of Maryland, dividing it from the state of Virginia; interrupted however, for the space of a few miles by the DISTRICT OF COLUMBIA, in which, upon the Maryland side, is situated the city of Washington, the seat of the National Government. This part of the territory, as well as Georgetown, situate within the

limits of the District, was ceded by the State of Maryland to the nation, in the year 1790 for the purpose of erecting a **FEDERAL CITY**. It is the characteristic of the Potomac that its head waters approach much nearer, and furnish a shorter and better course, for connecting with the waters of the great western valley, and communicating to the Mississippi, than any other of the Atlantic streams. Surveys have been made under the direction of the states of Maryland and Virginia, and also by a corps of Engineers under directions from the United States authorities, to ascertain the practicability of uniting the western with the eastern waters, through this channel. The practicability of the task has been clearly determined, as well as the facility with which connections can be continued from the Potomac to the Patapsco on one hand, and from the Ohio to the Lakes on the other, thereby effecting much the shortest water communication between the sea ports of the Atlantic, and the vast territories of the west. No one who considers the advantages, political as well as commercial, which would result from such a connection, can doubt for

a moment its ultimate accomplishment.

The course of the Potomac, from its source to Cumberland, a distance of 140 miles, is North-East. It here reaches within four or five miles of the Pennsylvania line, to which width the territory of Maryland is reduced for some distance. Thence the Potomac taking a S. E. direction, and receiving in its course the south or larger branch of that river, and the Shenandoah, from the Virginia side, and the Antietam and Monocacy from the Maryland side reaches tide water at Georgetown, three miles above Washington, and 188 miles below Cumberland. In this distance there are five falls. 1st, Little Falls 37 feet, six miles above Washington—2d, nine miles higher up is the Great falls, of 76 feet—3d, six miles further up, is the Seneca Falls, a rapid descending about 10 feet—4th, the Shenandoah Falls of 15 feet high, is sixty miles further up—five miles above the Shenandoah, is Hoar's Falls. Canals have been constructed round all these falls, to facilitate navigation. The distance from Washington to the mouth of the Potomac is 300 miles, which is navigable for large vessels. The sound-

ings are 7 fathoms at the mouth; 5 at St. George's Island, diminish to three fathoms at Alexandria, and to ten feet from thence to the little falls. This river is 1 1-4 miles wide at Alexandria, and 7 1-2 miles wide where it enters the Chesapeake bay.

The *Patuxent*, the *Patapsco*, the *Monocacy*; and many other rivers of considerable extent, rising in the elevated grounds of the Western Shore, and the numerous creeks leading into them, afford by their fall, an immense aggregate of water power, which is employed in propelling machinery for the most useful manufactures, which more than compensates their neighborhood for the want of the conveyance of that navigation which is so singularly enjoyed by those resident on the Eastern Shore and the Western borders of the Chesapeake.

The *Patapsco*, heads near the northern boundary of the state, and runs south and southeast to Elk Ridge Landing, eight miles from Baltimore, where it falls down a moderate precipice, and turning eastwardly, spreads by degrees into a broad stream, like a bay. It is navigable as far as Elk Ridge landing,

a few miles below which, it receives a stream called Gwinn's Falls. At Whetstone Point, on which stands Fort McHenry, it connects with the basin of water upon which the city of Baltimore is situated, and which receives at its head, a fine mill-stream, called Jones' Falls. Fifteen miles below Baltimore, the Patapsco flows into the Chesapeake.

The Magothy, Severn, South, and West rivers, are navigable waters, penetrating a few miles from the west side of the Chesapeake into Anne-Arundel county.

The *Patuxent*, takes its rise in two branches near the point where Frederick, Baltimore, Montgomery and Anne-Arundel Counties intersect each other; the branches unite a few miles above the village of Queen-Ann, thence it runs nearly parallel, with the Potomac and has a fine harbor for shipping within its mouth. The river is navigable for 50 miles; its entire length is about 100 miles. It is the dividing line between Saint Mary's, Charles, and Prince George's Counties, which lay on its south side, and Calvert and Anne-Arundel, on its north.

On the Eastern Shore, the *Pocomoke* rises in the Cyprus Swamps, and runs south and south-west, forty miles to Pocomoke bay, which joins the Chesapeake at the Virginia line.

The *Wycomoco* runs south west, about twenty miles.

The *Nanticoke* rises in the ridge of the peninsula in Delaware, and runs south and south west, twenty five miles in that state and thirty miles in Maryland. It is the largest river between the Delaware and Chesapeake bays.

The *Choptank*, rises in the borders of the same state, in the same ridge, and runs south by west, thirty miles, and west by north, fifteen miles. It is a broad navigable stream and has Cambridge situate upon its bank.

Chester river, rising in the state of Delaware, divides Kent from Queen Ann's county, in Maryland, and enters the Chesapeake at the head of Kent Island.

Sassafras river, running in the same direction, divides Kent from Cecil county—above this is the *Bohemia* river.

Elk river, rises in Chester county, Pennsylvania, and runs east and south, twenty-two miles to Elkton, where it receives the Little Elk from the north-

west. Thence it runs south-west, thirteen miles to the Chesapeake. Navigable for vessels drawing twelve feet water to Elkton.

The *Hudson river* makes up from the bay into Dorchester county.

Wye river, in like manner, penetrates Talbot county.

Besides these, there are many considerable creeks, some of which take the name of rivers as they increase in size. Of these on the western shore are;

The Monocacy, rising in Pennsylvania, and running through a rich valley in Frederick county, receiving in its course the little and the larger Pipe creeks, empties into the Potomac at the Montgomery line. The Cotoctin, runs at the base of the mountain of that name. The Antietam, rising also in Pennsylvania, flowing through Washington county, empties into the Potomac, at Williamsport. Deer creek, in like manner watering Harford county, flows into the Susquehanna above Port Deposit. The neck of land between the Susquehanna and the Patapsco is intersected by several rivers, the Bush, the little Gunpowder, the big Gunpowder, Middle river, &c. most of which are

navigable for some miles above where they empty into the Chesapeake.

ISLANDS — *Kent*, the largest Island in the Chesapeake bay, is situated opposite to Annapolis, and constitutes a part of Queen Anne's county. It is twelve miles in length; and about half that in breadth, having a number of good farms and a population of some hundred souls.

This Island was resorted to by the British, during the late war. Admiral Warner landed and encamped several hundred men upon it, in the summer of the year 1813, where they remained for six weeks.

Spesuti island, formed at the mouth of the Susquehannah; *Black island*, a few miles below; *Pool's island* at the mouth of Gunpowder; *Poplar island*, below Kent, and *Sharp's island*, at the mouth of Choptank river; *James' island* and *Hooper's island* are all situated in the Chesapeake bay, in this state, as well as two or three of the range of *Tangier islands*, which are formed opposite and below the mouth of Potomac river.

MOUNTAINS.—In the western extremity, where the state is very narrow, it is very mountainous. being crossed

by the various ridges of the Alleghany. The Blue mountain, and the South mountain, the most eastern of the range cross the state some distance above Frederick.

✕ **SWAMPS.**—Maryland divides the Cyprus Swamp with the state of Delaware. It is twelve miles long from north to south, and six miles wide, containing nearly an area of 50,000 acres. It is a high level basin situate upon the ridge between the Chesapeake and Atlantic, and contains a great variety of plants, trees, wild beasts and reptiles.

MINERALOGY.—Iron ore of excellent quality, is plenty in many parts of the state, furnishing materials for a number of iron works. Copperas and Alum are manufactured on the Magothy river, near the Chesapeake bay; coal abounds in the western district. Especially in Allegany County, which has been justly called the Wales of America, is there an immense abundance of Coal, esteemed the best in the world, and of Iron in great quantity. The State Geologist has presented some interesting Reports as to the Geological features of the country.

FACE OF THE COUNTRY.—The lands

upon the Eastern Shore of the Chesapeake, are low and level, and in some places covered with stagnant water.— On the Western Shore, the largest proportion of the land between the bay and the first falls of the rivers, has been pronounced level and free from stones; but it is intersected in many directions by hills of considerable elevation. From the first falls to the Blue Ridge, the country becomes more uneven, then hilly, and finally mountainous. Proceeding westward, it continues of the latter description; the South mountain, is the first of the range, then the Blue Ridge, and further on, the Alleghany mountains, beyond which, we reach the western limits of the state. There are several fine rich vallies west of the Alleghany mountain, particularly along the courses of the Youhiogany. Upon the mountain regions, are situated considerable tracts of level country, denominated *glades*, which afford excellent pasture for herds of cattle, which are merely marked by their owners and driven here to subsist until they are fit for market. Between the Alleghany and the Blue Ridge, lies a rich fertile limestone valley.

Turning to speak of the United States, Malte Brun, in his excellent modern geography says:

"We now approach a more genial climate, where the forest puts forth a vigorous vegetation and the fields are covered with abundant harvests. In this region, man is every where occupied in building houses, in founding cities, in opening new lands, and in subjugating nature. We hear, on all sides, the blows of the hatchet, and the blasts of the forge: we see the ancient forests delivered to the flames, and the plough passing over their ashes. We observe smiling cities, temples, and palaces, rise up within a short distance of cabins inhabited by Indian savages. We now tread the soil of federal America, that land of liberty, peopled by numerous colonies whom oppression and intolerance forced to leave the British isles, and the other parts of Europe."

Our countrymen would be apt to consider this picture of improvement as only applicable to the new states of the Union. Already Virginia, Maryland, Delaware and the eastern states are looked upon, and spoken of as *ancient*

dominions in regard to the other states. But the portrait is true when reviewed from Europe. What vast resources, what fields for cultivation still remain untouched in Maryland! May we not hope that the spirit of improvement, now "abroad in the land," will not only tend to develope, but also insure the improvement of these resources?

HISTORY.

MARYLAND.

CHAPTER I.

OF THE GRANT OF THE CHARTER AND
CONTROVERSIES AS TO THE LIMITS OF
THE STATE.

By the discovery and exploration of the continent of North America, by Sebastian Cabot, in the year 1498, the crown of Great Britain was considered as entitled to dispose of that part of the country which is now comprehended within the bounds of the State of Maryland. Accordingly, in 1632, a charter was granted by Charles I, to Cecilus, Baron of Baltimore, for a grant of land which seems to be much more extensive than that which now constitutes the limits of the State.

How the restriction of these original limits took place will be seen in the course of our remarks. In the year

1620, previous to the granting of Maryland to Lord Baltimore, a charter had been granted to the "*Council of Plymouth for the planting and governing of that country called New England*" and which invested that company with the right of soil and government over all the country, lying between the 40th and 48th degrees of north latitude.—The grant to Lord Baltimore extended on the North to the "40th degree of latitude, where New England is terminated;" so that the line of demarcation on the north was sufficiently distinct, one might suppose, to prevent all altercation. The settlements of this company were at that time confined within the present limits of Massachusetts.

In the year 1606, a grant had been made to a company, called *the London Company*, which had the right of making settlements between the 38th and 45th degrees and which in 1609 obtained a new grant under the name of the "*Treasurer and Co. of Adventurers of the city of London for the first colony of Virginia*," and to whom was granted the rights to the land north and south of Cape Comfort two hundred miles in both directions; and in 1611, a third

charter was granted to the same extent. The colony of Virginia remained under these charters till 1623, when in consequence of the refusal of the company to accept in place of the charter which they had, another charter, such as the king should grant, a *quo warranto* was issued, and the charter annulled, the rights of the company re-vested in the crown, and Virginia rendered what was termed a "Royal Government."

Thus, before the charter was granted to Lord Baltimore, the king had again the right to grant to him the land, which was comprehended in the first Virginia grants, as he did.

And in fact previous to the grant of this charter, no settlements had been made within the limits of Maryland, with the exception of a small colony on Kent Island under William Clayborne, who in the years 1626, '27, and '28, obtained licenses from the government of Virginia to trade in and to discover the sources of the Chesapeake. He also received a license from Charles I in 1631 to trade in all those seas and coasts &c., in those parts where there had been no previous grant from the crown. This was the only settlement in Mary-

land at the time of the grant to Lord Baltimore.

Notwithstanding this however, and the perfect right which the king had to grant the country within the limits of Maryland at that time, to Lord Baltimore, still there was great opposition on the part of Virginia to a grant which included a part of what had formerly belonged to her limits. In 1633 she complained of this to the Privy Council, which adjudged however, that Lord Baltimore should be left in possession of his grant and the petitioners to their remedy at law, if they had any such. In 1634 Clayborne requested the advice of the Government of Virginia as to the course he should pursue in his difficulties with Lord Baltimore, when they expressed their surprise at such a question, and remarked that they saw no reason for surrendering their right to the Island of Kent, or to any other territory formally granted to their colony by his majesty's patent. They were desirous of having the old charters considered as being still in force, notwithstanding the judgment of forfeiture against them by *quo warranto* in 1624. Accordingly the Assembly of Virginia

presented a petition to the House of Commons in which they prayed the restoration of the ancient patents.— This prayer was, however, soon disavowed by the Governor and Council and the question put to rest by the Kings' reply in 1642. Thus did the claims of Virginia to the territory of Maryland cease until the assumption of the government of Maryland by the commissioners of Cromwell, when some of them urged him to take it out of the hands of the Proprietary and attach it again to Virginia. This was not done however, and in 1658 the Proprietary's Governor, Fendall, again took possession of the State, since which time all claim of jurisdiction on the part of Virginia has entirely ceased.

Claims of Clayborne.—Clayborne, as stated above, claimed his right as subordinate to Virginia, and in 1634 applied to the government of that State for advice as to his course and receiving countenance in his pretensions from them, refused submission to Lord Baltimore.

In the latter part of 1634, Lord Baltimore gave orders to seize him, and he was, after considerable resistance, ob-

liged to fly to Virginia. The vessel which he had fitted out against the colony was captured and he himself compelled to seek refuge in Virginia. He was demanded of the governor of that State, who did not surrender him up, under pretence of respect for the King' license to him to trade, but sent him to England, to await the decision of the King. He then petitioned the king for a confirmation of his grant and a restoration of his possessions. But in 1638, the commissioners finally adjudicated upon it, giving the title to Lord Baltimore and asserting that no settlements ought to be made or commerce carried on without his license. Clayborne then became a petitioner to the Governor and Council of Maryland for the restoration of his confiscated property. The rejection of this petition induced him to join with a certain Richard Ingle, who had been proclaimed a traitor to the king, and, who together with Clayborne, excited a formidable rebellion in the province, even compelling the Governor to fly to Virginia for protection in 1645, after which Clayborne assumed the powers of government together with Ingle; and

indeed remained in possession until 1646, during which time many of the records of the government were destroyed.

In 1651, the parliament having obtained the supremacy in England, a commission was issued to Clayborne, Fuller and others, to reduce and govern the colonies within the Chesapeake Bay. Virginia soon yielded, and in 1652 Stone, the proprietary's governor submitted and was permitted to retain and administer the government in the name of the Keepers of the liberty of England. It remained in his hands until July 1654, when, during the time of Cromwell's usurpation, he endeavored to maintain his power by force of arms, but was defeated, and taken prisoner, and Clayborne and his associates assumed the rule of the Province, and appointed commissioners to administer it. In 1658, the province was again restored to the proprietary by treaty and thus ended the claims of Clayborne, as well as of Virginia, to any jurisdiction over the territory of Maryland.

South Eastern Boundary.—Some controversy having arisen relating to the

location of Watkins' point, the point which the charter of Maryland called for to the south east of the State, in the year 1668, a commissioner was appointed for Maryland and another for Virginia, who settled the point as that made by the "North side of Pocomoke Bay and the South side of Annamessex Bay," and thus ended the difficulty which existed as to that point.

Northern and Eastern Boundaries.—The charter of Maryland called for "the 40th degree of latitude on the north, where New England is terminated." This was sufficiently distinct of itself, but a settlement had been made by the Swedes on the Delaware, which settlement was reduced by the Dutch West India Company in 1655, when the Swedish colonists became the subjects of the States General and submitted to the government of New Netherlands. The settlement being small seems to have attracted but little attention, until 1659, when the Governor and Council of Maryland appointed a commissioner "to repair to the pretended Governor of a people seated in Delaware Bay, and inform him that they were seated within his lord . . .

province without notice," and also to offer them protection, if they would submit to his authority. Laying claim to the country, they refused to do this, when an agent was appointed to proceed to Holland to enforce upon the West India Company the claims of the proprietary to the territory in question and to require its abandonment. This requisition was not complied with, though orders were given by the company to the settlers to withdraw from the territory about Cape Henlopen; but New Castle and the adjacent country was still retained in their possession.

In 1664, Charles II, granted to his brother James Duke of York, all that tract of country extending from the west banks of Connecticut, to the eastern shore of Delaware, and conferred upon him the power to govern the same. An armament was despatched under Colonel Nicholls for the reduction of this New Netherlands, and in the same year, the settlements upon the Delaware were surrendered to these forces, and were by them admitted to all the privileges of English subjects.— From this period until the grant of

Penn, these settlements, embracing a small extent of country along the Delaware, continued as the dependencies of the government of New York, although clearly within the limits of Maryland, as granted to Lord Baltimore.

In 1680 Penn petitioned Charles II for a grant of lands westward of Delaware and north of Maryland. In 1681, after consultation with the Secretary of the Duke of York and with Lord Baltimore's agents, the grant was made to him in which the boundary called for on the south was "a circle of twelve miles drawn around New Castle to the beginning of the 40th degree of latitude." This of course left it doubtful whether the twelve miles were to be the diameter or the radius of the circle, and gave origin to some of the numerous controversies between Penn and Lord Baltimore.

In 1681 an interview took place between Lord Baltimore and Penn, at Chester, in which Penn presented the king's letter to Baltimore requiring the two proprietaries to adjust the boundaries between the provinces according to the calls of the charters.

At this interview it was discovered

that Chester itself was at least twelve miles south of the 40th degree, and therefore within the boundaries of Maryland, which would extend to the Schuylkill. This ended the conference, and in 1682, Penn obtained from the Duke of York, another grant of the town of New Castle, with all the territory twelve miles around it, and also all the territory south of the arm to cape Henlopen, and also got from him a release of all claims which he had to Pennsylvania.

Penn being thus in the possession of the original grant from Charles II, the grant and release from the Duke of York, and the letter from Charles II to the proprietary of Maryland, directing him to assent to a speedy adjustment of his northern boundaries, and to determine them by measuring from his southern boundaries two degrees to the north reckoning sixty miles to the degree, again sought another interview with Lord Baltimore. This accordingly took place in 1682 in Maryland when Lord Baltimore declined complying with the letter of Charles and stated to him that his charter "called for no specific number of degrees, but for the

fortieth degree of latitude and that no royal mandate could deprive him of his right." In 1683 another interview took place which also ended without an amicable adjustment. Accounts of these negotiations were transmitted to the commissioners of trade and plantations from each party, and Penn now finding that his grant would not bear him out in rightly obtaining the possession of the territory of which he was desirous, commenced his objections to the charter to Baltimore, on the ground that the Delaware settlements had been purchased and planted by the Dutch *before* the charter was granted; and that even if Baltimore had acquired a right to them under the charter, he had forfeited them by suffering others to retain possession of them for forty years. This was the objection which ultimately, in 1685, by the decision of the commissioners of trade and plantations, deprived Baltimore of what now constitutes the State of Delaware. In 1684 Penn proceeded to England, in person to have the matter settled, whilst in the meantime and throughout the controversy, efforts were made by Baltimore to have settlements

made in the disputed territory. In 1685, Penn succeeded in having a decision made by the commissioners of plantations, in which they decided that Lord Baltimore's grant only included "lands uncultivated and inhabited by savages and that the territory along the Delaware had been settled by christians antecedently to this grant, and therefore was not included in it." Thus did the commissioners of plantations, by this decision, confirm the grant of king James to Penn.

This decision, however, owing to the troubles both in England and in the provinces during the reign of James, and the Protestant Revolution which succeeded was not carried into effect, but the limits of the province thus continued unsettled until 1718. In 1689 the government of the province of Maryland passed from the hands of the proprietors into those of the Protestant Association, where it continued until 1691, when it was again taken out of their hands and became and continued a "royal government," that is, in the hands of the king, until 1716, during all of which time the proprietary, being a Catholic, was stripped of

all his rights. In 1718 Penn died leaving his province to his sons John Thomas, and Richard Penn.

From the decree of 1685 up to the agreement of 1732, frequent controversies were had between the Marylanders and Pennsylvanians as to the boundaries which sometimes ended in battles. During all this time, the peace was kept only by temporary expedients, till, in that year, an agreement was entered into between Lord Baltimore and the Penns, in which the former with too facile a disposition conceded to the latter nearly all that they claimed. Seeing the extent to which he had gone, he now sought from king George II a confirmation of his charter, which was opposed by the Penns on the ground of the voluntary agreement and surrender of the territory by Baltimore to them. The result was, that in 1735, the Penns were directed by an order of the king in council, to institute proceedings in Chancery to test the validity of this agreement which had been made between them. About this time an attack being made upon the house of Thomas Cressap and some fearful excesses com-

mitted, the Proprietaries were commanded to put a stop to them, and in 1738 a provisional line was run to effect this object. In 1750 Lord Hardwicke pronounced 'the decision of the court upon the agreement between Baltimore and the Penns, in which the agreement was ordered to be carried into specific execution, and commissioners were appointed to fix the boundaries according to the agreement.

In 1751, Charles Lord Baltimore, with whom the agreement of 1732 had been entered into, died, which opened anew the difficulties, as two conveyances of the province of Maryland had been made in *strict settlement*, by which Frederick, the present proprietor, contended that he was protected from the operation of the agreement of 1732 and the decree of 1750 and therefore resisted them. Another bill was therefore filed in Chancery by the Penns to compel him to submit, but before a decree was had, another agreement was made, in 1760, between Lord Baltimore and the Penns, which confirmed the agreement of 1732, and the decree of 1750, and thus finally settled this protracted controversy. According to this agreement, commis-

sioners were appointed to settle the exact boundaries between them. They assembled in New Castle and commenced their labors in 1760, and closed them in 1768 by a final report to the proprietaries; during all of which period they kept a daily journal of the transactions, authenticated each day by the signature of each commissioner present. The boundary line between Pennsylvania and Maryland was thus definitively located, the surveys being made by Messrs. Mason and Dixon, and hence this boundary is frequently referred to as Mason's and Dixon's line."

It was laid off with boundary stones, with the greatest care and disinterestedness throughout its whole extent. The Journal of Surveyors is still presented.

Southern and Western Boundary.—The grant to Lord Baltimore on the south and west extended to the "first fountain of the river Potomac," and of course depended upon the exact location of that fountain, whether at the head of the north branch or of the south branch of that river. A grant for the territory south of this had been made by king James II to Thomas Lord Culpepper,

from whom it descended to Lord Fairfax, who in 1748 opened a Land Office, which he kept open until his death in 1781.

The line between the State of Virginia and Fairfax's grant, was settled, and confirmed by the king in council and the legislature of Virginia in 1748, in which the *northern* branch of the Potomac was *assumed* by them as the first head of that river. But it does not seem that the Proprietary of Maryland was in any way connected with, or consulted as to that settlement, nor could he be precluded by any such *ex parte* proceeding. After the Revolution, the State of Virginia assumed the jurisdiction over the territory which had been granted to Fairfax.

It has always been contended by Maryland that the south branch of the Potomac was the longest stream, and, in 1753, the Proprietary of Maryland in his instructions to the governor directs him to prohibit "settlements under Fairfax in the country north of the south branch;" and, though the difficulties and troubles which ensued in the colonies from the Indian Wars and the excitement of the Revolution, prevent-

ed an adjustment of these limits down to that time, yet, the Proprietary had never relaxed that claim, and the constitution of Virginia adopted in 1776, fully recognised the right of Maryland "to all the territory contained within its charter &c." In 1777 commissioners were appointed from both the States of Virginia and Maryland to settle the question as to the jurisdiction over the waters of the State &c. and a compact was entered into between them for the punishment of offences &c. which has, however, been superseded by the adoption of the U. S. Constitution and the jurisdiction of the Federal Government. But by this compact, no settlement was made as to the south western boundary, which still remained in the same condition until 1795. In this year commissioners were appointed by the State of Maryland to meet those who should be appointed on the part of Virginia, to adjust this boundary;—various delays ensued, and when commissioners were finally appointed upon the part of Virginia, they were so restricted in their powers as to render negotiation with them useless, and thus the matter rested until 1810, when resolutions were again passed by the legislature of

Maryland under which nothing was done; and again in 1818 resolutions were passed for the appointment of commissioners, and proposing to Virginia to adopt the most *western* source of the *northern* branch as the point from which the western boundary should commence as a matter of compromise. In conformity with the propositions of this act, Virginia appointed commissioners, but again restricted them to commence the western boundary "at a stone planted by Lord Fairfax on the head waters of the Potomac;"—this of course rendered useless the appointment of commissioners on the part of Maryland as the very question at issue was precluded and closed. Commissioners, however, were appointed, but those from Virginia, declining to throw open the matter in controversy and insisting upon designating the boundary to commence according to their instructions, at the stone planted by Lord Fairfax, the negotiation of course ended.

In much the same condition the controversy still remains, up to the present time, and although soon after the report of the commissioners, there was a considerable disposition manifested to have

the case decided by the federal courts, yet no steps have, up to the present time, been taken to effect that object.

THE PROPRIETARY GOVERNMENT.

MARYLAND.

CHAPTER 1.

OF THE NATURE OF THE PROPRIETARY
GOVERNMENT AND RIGHTS OF THE
PROPRIETARY OF MARYLAND.

There were three different kinds of colonial government adopted for the regulation of the provinces, known as "*Royal Governments*," "*Charter Governments*," "*Proprietary Governments*." The Royal Government was where the colony was immediately under the rule of the crown, such as Virginia and North Carolina, &c.—the *Charter Government* was where the government of the colony was in the hands of the colonists themselves, who governed in conformity to a *charter* from the king: such

were Connecticut, Rhode Island, and Massachusetts;—the *Proprietary government* was where the charter granting the Territory also granted the jurisdiction to either one or more persons as Proprietaries of the Territory granted and with the right to govern the people. These proprietaries were either single individuals or more frequently companies;—the colonies of the former were generally better governed and less liable to difficulties and controversies than those of the latter.

The Proprietary government of Maryland was considered as one of the most favorable kind. It is supposed that the charter which granted the Territory to Lord Baltimore was drawn up by himself, and contained such extensive and favorable powers, that Maryland was almost the only proprietary government which, though suspended twice, once from about 1650 (Cromwell's time,) to 1658, and once again from 1689, (the time of the expulsion of James II) to 1715 when it passed into the hands of the Protestant Associators, yet, when again restored, continued in full operation to the time of the Revolution;—while in the meantime the proprietary government of Virginia, which

had been granted to the London Company, as well as those of New Jersey and of Carolina which had been granted subsequently to that of Maryland, were changed from proprietary governments to Royal Governments.

The charter of Maryland which was granted to Lord Baltimore and which contains 23 sections may be found in the introduction to Kilty's Laws of Maryland and in this we must seek for the origin of the powers and of the rights of the Proprietary.

Let us here briefly consider those powers, and see how near the Proprietary of Maryland was to being a King of the State.

Proprietary's Power as to making Laws.—The charter provided that the proprietary was to enact laws "by and with the advice, assent and approbation of the majority of the freemen of the province, or of the delegates or deputies." It however prescribed no mode of assembling the people, which was left to the proprietary. And he seems to have held that the power of originating and promulgating laws, resided in him no less than the power of rejecting

laws passed by the Legislature. Hence he rejected in mass the laws passed by the first assembly of the province, and as a substitute for them, sent a body of laws from England for their adoption, which they on the other hand, as promptly rejected (in 1637) for him, asserting with spirit their right of "advising, assenting to and approving the laws." From that time the right of the assembly to originate laws does not seem to have been contested, and the proprietary's authority was in the general confined to the exercise of the power of rejecting such as he did not approve of, which power was generally delegated to the governors in the instructions given to them, but not so as to exclude the] proprietary from the exercise of the final power of still rejecting them, if he pleased, although assented to by the Governor. The governor's assent only gave effect to the laws, till the dissent of the proprietary, when they ceased to operate.

Assembling of the Legislature.—The proprietary also had the power of convening, adjourning or proroguing the assemblies as he pleased, and also the power which he a long time exercised.

of determining how they should be constituted. Up to the time that the government passed into the hands of Cromwell's commissioners there was no uniform mode of convening the assemblies; the warrants sometimes calling for them in person, or by proxy, or by deputy, or without prescribing the mode of appearance. After the restoration from the Protector's commissioners to the proprietary in 1650, the right of appearing by person or proxy wholly ceased, and from this period the distinct establishment of the two houses, which had first been separated in 1650, became permanently established. The upper house consisted of councillors to the governor and the lower house of delegates from the people. Thus from 1658 to 1681 the elections for counties instead of for hundreds as heretofore, were regulated by *warrants of election* issued for each assembly, each county electing two, three or four delegates who were then summoned to attend by *special writ*. In 1692 (during the suspension of the proprietary's government,) the organization of the lower house, was settled by the act of 1692, (chapter 76) and so continued to be regulated by

law, (1704 chapter 35, 1708 chapter 5, 1715 chapter 42, 1716 chapter 11) until the adoption of our present government. These acts gave to each county four delegates and established uniform modes of election. By this constitution of the Legislature, although the upper house was rather too dependant on the proprietary for encouragement of liberty of feeling; and although his power of assembling and proroguing the Legislature, gave him great authority, yet the House of Delegates seem to have always watched with vigilance and success over the rights of the people.

Ordinances.—The power of the Proprietary to pass *ordinances* does not seem to have ever been much exercised by him, and when attempted was generally resisted by the people, by whom it was regarded as a mere police power or power of legislating in very emergent cases. On two occasions, (one in 1733 and one in 1770,) when the *fee bill* had been suffered to expire, it was continued by proclamations; but still the exercise of this power was always resisted by the Lower House as violating the provision of the charter, which exempted the colonists from all taxes

and impositions whatever, except those which were fixed by acts of Assembly. The Proprietary, however, does not seem to have ever attempted the abuse of this power, else, doubtless, he would have been resisted. When he did attempt the exercise of it, the excitement which it created in the province, showed the jealousy with which the people regarded it.

Executive Powers.—The proprietary had all the powers that were exercised in the Palatinate of Durham, in England, which were almost as great as those of Royalty itself. Not only this, but the charter also granted further special jurisdiction, rendering it the most ample and sovereign in its character of any grant ever emanating from the crown of England. The powers thus granted to the proprietary may be classed for our consideration, under the heads of *civil, military, ecclesiastical, or commercial*.

Civil powers — Appointments.—The Proprietary had the sole right as well from the 7th sec. of the charter as from the Palatinate jurisdiction, of creating all offices, determining the duties of officers, appointing all judges, justices and other functionaries, state or county,

whatsoever, in the province; and of establishing all courts and determining their jurisdiction, and mode of proceeding &c. During the suspension of the proprietary government, in 1694 (ch. 92), some salutary restrictions were imposed upon this unlimited power, as to residence &c of the officers, which were considered to continue in operation also after the resumption by the Proprietary.

The only limit or restriction which the people had upon the exercise of this power of appointment, was in the regulation of the fees and perquisites of office, which were determined by the acts of Assembly and which therefore enabled them to exercise the real control over the functionaries, inasmuch as the laws regulating them were always temporary, being passed for short periods.

It was by holding the purse strings that they held a check over the proprietary and hence they always made vigorous and steady opposition to his continuance of the fee bills by proclamation under his ordinance power, knowing the usurpations to which it might lead.

Titles—Pardoning Offences—Defer-

War.—The Proprietary further had the power of conferring titles, (with the restriction that they should not be such as were then used in England;) of pardoning offences, and of defending the province by the erection of castles, and by carrying on of defensive war, and the like powers, the exercise of which never seems to have given much trouble to the people.

Military Powers.—The Proprietary power of carrying on war was of small consequence unless the assembly should grant the means so as to make it effectual. And no subsidies, aids, customs, taxes, or impositions could be levied on the province for any purpose whatsoever without the consent and approbation of the General Assembly. (1650 ch 25.) Many acts were passed on the subject, defining the extent to which the freemen of the province could be required to go, and modifying the powers of the proprietary, by prescribing the manner of organizing armies, and disciplining the militia.

Under the Charter of Maryland his nominal military authority was indeed quite extensive, being clothed with all the powers of a Captain General, and

of waging defensive war. But the Legislature soon curbed this power by the restrictions imposed and the regulations for the disciplining &c. of the militia. Though he had the power, they had the supplying of the means. For no subsidies or taxes could be imposed without their aid (act of 1650 ch 65, made perpetual 1673 ch 2). Accordingly various acts have been passed regulating the disciplining the militia; such as 1661 ch 8; 1676 ch 8; 1678, ch 2; 1681 ch 1; 1692 ch 83, 1699 ch 47; 1701 ch 87; 1715 ch 43 with its supplements 1722 ch 15; 1733 ch 7; 1748 ch 1 which was the militia law of the province until the Revolution.

Commercial Powers.—The charter of Maryland, conferred the most extensive commercial privileges on the colony. allowing all commodities, except such as were specially prohibited, to be imported into the province upon the ordinary customs (art 11;) and all articles whatsoever of its growth or produce to be exported, to any of the ports of England or Ireland, subject only to the impositions and duties paid in similar cases by the inhabitants of England (art 15.) And, (20th art) the

kings of England were prohibited from imposing any taxes or impositions whatever "upon the persons or property of the inhabitants being within the province," a prohibition, which the people of Maryland sooner resorted to the Revolution than allow to be violated or infringed upon as far as regarded the laying of taxes. As to the encroachments upon her commerce, however, Maryland, together with the other colonies, was obliged to yield to the navigation acts, although the Proprietary endeavored to maintain that his colonists were not bound to export their tobacco to England or Ireland, or give bond for that purpose, if they paid the duty. But shortly after this, being himself stripped of his province, the restrictions of the charter were violated and Maryland together with the other colonies was obliged to submit to the navigation acts, which place the carrying trade in the hands of the mother country.

Ecclesiastical Powers.—The Proprietary was entitled (6th art. ch.) to the patronage and advowson of all churches within the province and to form churches, chapels and places of

vership. The established religion was first introduced into the colony during the suspension of the Proprietary's rights in 1692, and the right of appointing the incumbents were in the Proprietary though pluralities were forbidden (1701 ch 1.)

Religious toleration existed, and all churches were allowed but none established.

The oath of office prescribed by the Proprietary to his governors from 1623 to 1649 bound them to complete religious toleration of believers in Christ. In 1649, ch 2, the same principles were engrafted into the law. In 1654, during the ascendancy of Cromwell's commissioners, an ordinance was passed prohibiting the profession and exercise of the Roman Catholic religion but on the restoration of the proprietary, toleration was again established and continued until the accession of the Protestant Association. In 1658, during the usurpation of Fendall, a decree of banishment was passed against the Quakers, because they refused to take the test oath;—though the government proper can scarcely be held accountable for this.

In 1676 complaints were made to the Crown, on the authority of a letter of the Rev. Mr. Yeo of Patuxent in Maryland, by the Arch. Bishop of Canterbury, representing the Province of Maryland as in a deplorable condition for want of an established ministry, there being but three Protestant Ministers to 20 000 souls. (Chalmers 375.) The Proprietary was then in England, and was enjoined to enforce the laws against immorality, and (although a Catholic) to endeavor to procure a maintenance for the support of the Clergy of the Church of England. In 1687 a *quo warranto* was issued against the charter of Mary by James II. Although the Proprietary was like himself, a Catholic. The accession of a Protestant saved the Proprietary for a while from the loss of his province.

In 1689 the Protestant Association got possession of the government;—and in 1692 Maryland became a Royal Government under King William.—Although the Protestant Association thanked his majesty for redeeming them from the arbitrary will and pleasure of a tyrannical popish government, under which they had so long groaned:

as there seems to have been no real cause of just complaint against the Catholic Government.

In 1692, immediately after the arrival of the Royal Governor, an Assembly was called and the first act passed after that for the recognition of William and Mary, was one "for the service of Almighty God, and the establishment of the Protestant Religion in the Province." Thus was the Church of England first introduced by law into Maryland, and so continued the Established Church until the Revolution.

In 1694 Nicholson became Governor and being a great promoter and encourager of the clergy, the orthodox Churches became crowded as full as they could hold.

Not satisfied with the act above alluded to the next act was that of 1704. ch. 59, to prevent "the growth of Popery," by which mass was prohibited. Catholics were prohibited from engaging in the instruction of youths, and the protestant children of Papists might compel their parents to afford them a subsistence. Though this act was not to apply to priests exercising these functions in private families.

Successive acts were passed upon the subject in 1704, ch 95; 1706 ch 9; 1707 ch 6, which seems to have been passed at the instance of the crown and suspended all prosecutions in the cases excepted.

In 1713, ch 4, this act was repealed. Because, as it asserts, by the 11th and 12 William 3rd, ch 4, sufficient provision is made to prevent the growth of Popery, in this province, as well as throughout all his majesty's dominions.

As to protestant dissenters, immediately after the Revolution they were persecuted almost as much as the Catholics. But in 1702, ch 1, the provisions of the English toleration act were expressly extended to the protestants of the province;—and the quakers were allowed to make their affirmation as by 7th William III, and again in 1706, ch 8, the law was affirmed, and thus the Catholics alone were left subject to persecution, in a State founded by them, and in which all religions had been tolerated by them.

Charles Calvert died in 1714, leaving his rights to his son, Benedict Leonard Calvert, who was the first

Protestant Proprietor, but who died in a short time, leaving his title in 1713, to his infant son Charles Calvert, who, being also a Protestant, was allowed to take possession of his inheritance, after an interruption of the claims of his family because of their Catholic religion for twenty six years.

Soon after his accession the test oaths were introduced to no more effect than to guard against the Catholics.

In 1704, ch 11, a test oath had been required, but on the accession of George I, to guard against the Pretender, new test oaths were established in England, which paved the way for the introduction of the same in Maryland; in 1713, ch 39, test oaths were required from all officers, which required the acknowledgement of the disbelief of the doctrine of transubstantiation, and which also rendered necessary the oaths of allegiance, abhorrency and abjuration. These disqualifications were still further extended by act of 1718, ch 1, which rendered Catholics incapable of voting unless they took the prescribed test oaths &c;—hence, they continued to be deprived not only of the privilege of holding office, but also of voting.

down to the time of the Revolution, just previous to which, the political essays of the day reproached Charles Carroll of Carrollton with his disfranchisement, as being "one who does not enjoy the privilege of offering his sunny vote at an election," but this disgrace the 33rd section of the bill of Rights wiped clean out by declaring "that it is the duty of every man to worship God, in such manner as he thinks most acceptable to him." After the adoption of that bill, all Christians believing in a future state of rewards and punishments were admitted equally to office.

CHAPTER II

PERSONAL RIGHTS AND REVENUES OF THE PROPRIETARY.—Let us now advert briefly to the *Personal Rights and Revenues of the Proprietary*.

Ownership of the Soil.—The Proprietary not only had jurisdiction over the Province as its governor, but was also the owner of the soil; and hence, when stripped of his government from 1689 to 1713, he still remained in possession of his rights as owner of the soil.

The whole of the land of the province was granted to him to be held in free and common socage, and of course he had the right to dispose of the same, as he saw proper, and according to his own conditions; a right which he continued to exercise down to the time of the Revolution, granting out the lands, as he deemed most expedient, according to his "Conditions of Plantation," "Proclamations" and "Instructions,"—a right which he still exercised, when stripped of the jurisdiction

the Province.

His Revenue from the Lands.—The proprietary's revenue from lands consisted of quit rents, caution money paid at the time of the grant, alienation fines, including fines upon devise.

Quit Money.—The quit rent were the annual rents which the Proprietary reserved in his grants, to be paid him by the tenants, and were regulated from time to time by his proclamations and instructions, according to the value of the lands. At first these rents were payable in wheat, but after 1638 they were paid in money or the products of the country at the option of the Proprietary. The payment of quit rents was attended with much inconvenience and oppression to the people, and in 1671 (ch 11) was commuted for payment in tobacco, by imposing a duty of two shillings on all exported tobacco, one half to be paid to the proprietary and one half for the defence of the province;—this was to be paid to the proprietary in consideration of his agreeing to receive tobacco for his quit rents and alienation fines. This continued till 1717, when the assembly bought out the Proprietary's right by

allowing as a compensation, therefore, and in lieu of it, a duty on all exported tobacco "in full discharge of all quit rents and alienation fines." This act expired in 1733, after which, down to the Revolution, the quit rents continued payable to the proprietary according to the grants. The assembly frequently endeavored to renew the commutation, but without success.—The nett revenue from them was estimated in 1770 to be about £7,500.

Cautions Money.—At the first settlement of the Province, to encourage emigration to it, every settler was allowed a certain quantity of land, and only had to pay whatever quitrent the "condition of plantations" called for.—But as the land became more valuable, in the year 1633, a new system was adopted, under which whosoever wished to sue out a warrant for lands, was obliged first to pay a portion of money as caution money, the amount of which was regulated by the proprietary's instructions. And this system of granting lands has continued down to the present day.

Alienation Fines.—These fines, originated in the feudal system, and were

and by the tenant for the right of alienating his land, as an incident to common-law tenure. The first notice of them in the colony is in the conditions of a grant of 23rd Sep. 1653, which decreed that in all future grants there should be reserved upon the patentee one year's rent for a fine, to be paid upon every alienation of the land granted, such rent being estimated by the rent reserved as quit rents—the fine to be entered upon the records of the provincial court, or those of the county where the land lay, and the fine paid before the alienation, or else the alienation void. The commutation for alienations was included in acts of 1671 (ch. 11) and 1717 (ch. 7.) which having expired in 1733, the alienation fines became again payable to the proprietary, and so continued to the time of the Revolution. Alienation fines were also payable on demises, but being considered a great grievance, were utterly abolished with the consent of the Proprietary in 1742.

Revenue from other sources.—Other sources of Revenue to the proprietary were principally the *port or tonnage duty*, the tobacco duties and *finces*, for-

feitures and amercements.

The *Port or tonnage duty*, was a duty, imposed by act of 1646 (ch 1) on tobacco, wines, &c exported, to enable the proprietary to defray the expenses incident to Clayborne and Inglis' rebellion. In 1661 (ch 7) this act was repealed and in place of it, a duty of 1 l-2 lbs powder and 3lbs of shot laid for the proprietary "on all vessels trading to the province not owned in it, having a deck flush fore and aft," which duty was soon commuted for a money duty at 14d per ton. At the protestant revolution, the crown decided that this duty was a part of the proprietary's private revenue and as such did not pass from him with the government;—he therefore continued to collect it till his restoration in 1715, and so on without difficulty till 1739, from which time the assembly began to dispute his right to it and continued to wage against it an unceasing war, until the Revolution, without however being able to deprive him of it. It was estimated in 1765 at from 900 to £1,200 per annum.

Tobacco Duty.—In 1671 (ch 11,) a duty of 2s sterling per lhd., was im-

posed upon all tobacco exported, one half to be given for the defence of the province, and the other half for the proprietary's own use,—in consideration of his agreeing to receive tobacco for his quit rents and alienation fines, at the rate of 2d per lb. During the time of the royal government his title to it was sustained and he continued to collect it for his own use. Finally, in 1717 (ch. 7.) it was bought out by the assembly, by allowing in lieu of it a duty on tobacco exported, which continued till the act expired in 1732. During the Royal Government, in 1704 (ch 42,) it was given to the Queen for the support of the government over the province, and principally applied to the support of the royal governor. In 1739 the propriety of the tax began to be questioned, and from that time to the Revolution, the assembly waged a continual war against the proprietary's right to it; but he continued to collect it. From 1759 to 1765 the annual amount of it was about £1543.

Fines, Forfeitures and Amerciaments.
The common law fines, forfeitures and amerciaments belonged to the proprie-

tary, as the head of the government of the province, and whenever he ceased to act as such, they ceased to belong to him. The amerciaments were regulated by the act of 1723 ch 12. under which act those in the county courts were applied to county charges, and those in the provincial courts were disposed of, as the governor and council might direct. At first the amerciaments &c. were applied as a proprietary fund in which the public had no interest; but in 1745 the assembly solemnly determined that they were a public fund and to be appropriated to the support of the government. It then became a standing cause of complaint which never ceased in the colony until the time of the revolution. From 1659 to 1765 they yielded an annual average amount of 7130lbs of tobacco.

His Personal Rights.—One of the personal rights of the proprietary was, a preference in the payment of all debts due to him. He also exercised the right of suing in his own courts, (2nd H. & Mc H. 345,359.) Since the Revolution, it has been decided that he was within the operation of the statutes of limitation, although not expressly

named (2 Har and Mc H. 138; 1 Har and J. 71) though before the Revolution a contrary opinion was maintained (1 H. and Mc. H. 151; 2nd Har and Mc H. 279; 1 Har. and J. 82,96.)

Proprietary's Revenue.—His quit rents in 1770 were estimated at say £7,500; caution money considerable, though amount not known; alienation fines (abolished in 1742), amount not known; tonnage duty, in 1766, estimated at from £900 to £1200 per annum; tobacco duty, in 1765, say £1543, fines forfeitures and amerciaments, in 1765, say 7130 lbs tobacco; all of which taxes have been gotten rid of by the Revolution of 4th July 1776.

(During the first two or three years of establishing the colony, the Proprietary spent £40 000 in its support and maintenance.)

Currency.—In 1661 (ch 4) a mint was established in Maryland for the coining of shillings. This was an assumption of royal powers by the Proprietary. In 1676 the law establishing it was made perpetual. It probably did not go into operation extensively, for in 1686 an act was passed

entitled "an act for the advancement of coins." This act established the provincial currency instead of the sterling. Under this act New England shillings and six pences were to be taken as sterling at their denominated value.

CHAPTER III.

PROPRIETARIES OF MARYLAND.

George Calvert, with whom the design of obtaining and colonizing the province originated, first applied for the charter of Maryland. He lived only to see the difficulties removed, and to leave to his heir a title to the grant, perfected in all but its legal forms. We find the following account of him in *McMahon's Maryland*.—*Calvert* who was then the founder of the title and the fortunes of his family was born in Yorkshire in 1582. At an early age he became the Secretary of Sir Robert Cecil, through whose influence and patronage he was made Clerk to the privy council, and ultimately became Secretary of State to James I. The latter office he resigned in 1642, because of his conversion to the principles of the Roman Catholic Religion. Notwithstanding his avowal of these, and his resignation, he seems to have lost none of the royal favor which he previously enjoyed, inasmuch

as he was continued in the Privy Council, and received in the succeeding year the honors of knighthood, with the title of Baron of Baltimore, in the kingdom of Ireland. He had represented Yorkshire in Parliament, and was at the time of receiving knighthood, the representative of the University of Oxford. During his Secretaryship he obtained a grant of the province of Avalon, in Newfoundland, where he made some efforts at a settlement, which, although they did not answer his expectations, instead of repressing his ardor for projects of colonization, had only the effect of directing his enterprising spirit in search of some more favorable location. Animated by this desire, he visited Virginia, and his sagacity at once perceived the advantages which were likely to result from settlements upon the Chesapeake Bay, and the facilities for their establishment presented by the adjacent country, of which the colonists of Virginia had availed themselves only, by the establishment of a few trading houses. On his return to England, he proffered his application for the grant of the province of Maryland, and sustained, as it was, by the

consideration of distinguished services, untiring enterprise, and great moral worth, it was readily acceded to by the pliant king Charles, who never knew how to refuse the requests of favorites. It has been inferred by some, from the tenor of the charter itself, and the extreme care with which the rights of the proprietary are guarded by it, whilst the prerogatives of the crown and the eminent dominion of the mother country, are almost as cautiously excluded from view, that it was the work of Calvert himself: but, be that as it may, there is but little doubt that the facile Charles permitted him to dictate its terms. Early in 1632, and when his charter was just ready for its passage under the great seal, he died, leaving fruition of his grant to his son and heir, Cecilius Calvert, to whom the charter of Maryland was finally granted on the 20th of June, 1632."

Cecilius Calvert, 2d Lord Baltimore, the first Proprietary of Maryland, received the charter in 1632, died on 30th November 1675, and was succeeded in his titles and estate by his son and heir, Charles Calvert, who was at the time Governor of Maryland. He

did not himself come over to the Province. In 1645, Clayborne and Inglis' rebellion was successful against him for a year or two. From about 1653 to 1656 or 1660 his government was usurped by the Commonwealth's commissioners. His character, says the historian, has come down to us indented in his acts and in the language of historians, "with religious liberty and respect for the rights of the people."—"Never," says Dr. Ramsey, "did a people enjoy more happiness, than the people of Maryland, under Cecilius, the father of the Province."

Charles Calvert, son of Cecilius, 3d Lord Baltimore, came out to the Colony as Governor in 1662, and remained until the death of his father in 1675.—He became the Proprietary in 1676, but died stripped of his government because of being a Catholic. On becoming proprietor in 1676, he went to England and returned to the Province in 1680; in 1684 he again returned to England, where he died soon after the accession of James II. In 1687 a *quo warranto* was issued by King James against his charter, but the dethronement of that monarch prevented its

loss. In 1689 the deputies of the Province surrendered, at the garrison of Mattapony, to the "Protestant Association," an association formed in the Province for asserting the right of William and Mary to the Province of Maryland, and all the English dominions, and of which John Coode was the leader. King William sanctioned the revolution, and thus Maryland continued under the convention till 1692, when it became a Royal Government, and remained under the crown till 1716, and was administered by Governors appointed by the crown. Charles Calvert died on the 20th February 1714, aged 84. Continuing a Catholic to the time of his death, he remained in the possession of his private property, but was deprived of the jurisdiction over the colony, which devolved to his son Benedict.

Benedict Leonard Calvert, at the instance of his father, and to prevent his disfranchisement, embraced the doctrines of the established church. He thereupon became the Proprietary, but died almost as soon as recognized.

Charles Calvert, Lord Baltimore (the 5th of that title,) the son of Benedict

became the proprietor in 1715, while yet an infant. He was educated in the Protestant church and the established religion and therefore his claims to the Province were fully sustained by George I. He visited the Province in 1732, and returned in 1733. For 36 years he governed the Province, with a spirit that acquired for his administration, the general character of virtue and moderation.

Frederick.—By the death of Charles Lord Baltimore, the government fell into the hands of his infant son Frederick, in 1751, who continued to enjoy it till his death in 1771. He never visited the Province and did not possess the same hold on the affections of the colonists as his ancestors.—During his time the Colony was violently agitated by the numerous political questions then discussed, and the people maintained their rights with great vigor.

Henry Harford, next became the proprietor by devise, but his government had a short duration, as it terminated with the American Revolution in 1777. He was an illegitimate, at the time of his succession, a minor, and a

stranger, and without any personal claims on the affections of the colony,

GENERAL HISTORY OF THE STATE.

MARYLAND.

A SKETCH OF THE HISTORY OF MARY-
LAND.

The history of Maryland, from its settlement in 1634 to the Revolution in 1776, embracing a period of two hundred and forty two years, has, for the sake of perspicuity, been divided into three prominent periods or eras.

The *first era*, commencing with the colonization, extends down to the expulsion of King James II from the throne of England and the commencement of the protestant dynasty in that country, in the year 1688, soon after which time the 'Protestant Association' commenced to rule in the Province.

The *second era* extends from this period, to the overthrow of the "Protestant Association" in the Province, and

the restoration of the proprietary government in 1715.

The *third era* extends from 1715 to the treaty of Paris in 1763; after which commences the Revolutionary period.

FIRST ERA.

From the Colonization in 1632 to the expulsion of James, 1688.—The death of George Calvert, the Baron of Baltimore, just about the time that the grant to him of the province of Maryland was about being perfected, frustrated the plan which he, no doubt, had in view of himself settling the colony of Maryland, in a region where he might enjoy, in its full liberty, the exercise of the Catholic religion, to which he had become a convert. The grant was then issued to *Cecilius Calvert*, his son, who originally intended to accompany the expedition himself, but abandoning this intention, confided the conduct of the settlers, consisting of about two hundred Roman Catholic families, to his brother, *Leonard Calvert*. On the 22d November 1633, the colony embarked from the Isle of Wight, and

reached Point Comfort, in Virginia, on the 24th February following. Continuing up the Potomac, the colony disembarked at the town of Yaocomoco, on the 27th March 1634 and took possession of it, by the name of St. Mary's, and founded the city of *St. Mary's*.—It is stated that during the first two or three years of the settlement of the colony, the proprietor, Cecilius, spent upwards of £40,000 upon it. The conveniences which were thus procured, the wise regulations which were adopted for the government of the colony, the humanity of the settlers towards the natives, and the freedom of religious opinion tolerated, all conduced to place the settlers soon in a flourishing condition. One of the earliest evils that the colony had to contend with was, on the one hand, the dissatisfaction of Virginia, the settlers of which considered the grant to Lord Baltimore as a kind of encroachment upon their dominion, and, on the other, the hostility of Clayborne, who had already, under the partial jurisdiction of Virginia, made a settlement on Kent Island. This man continued his hostility to the proprietary during the first twenty five years

of the settlement; in 1642, exciting an Indian War, against it, and in 1644, raising the rebellion at present known as *Clayberne's and Ingle's* rebellion, the latter of whom had been sometime before proclaimed a traitor to the King. It is supposed that they advocated the parliament cause. In 1645 the rebels succeeded in driving Leonard Calvert, the governor into Virginia; but the government of the proprietary was again restored in 1646, the early records of the province having been entirely destroyed during the rule of the usurpers. The colony did not take any part in the dissensions of the mother country, though from the immature proclamation of Charles II, by Gov. Greene, on the death of Charles the first, it may be supposed that their feelings were with the loyalists. They however took no further part in the controversy and did nothing to disturb the dominant party. In 1651 a commission was issued from parliament to four persons among whom was Clayborne to reduce all the plantations within the Chesapeake Bay to their due obedience to the parliament of the commonwealth of England. They de-

manded of Stone, then governor of Maryland, a recognition of the authority of parliament. He at first refused, but finding opposition vain, at length effected an arrangement with the commissioners, by which he and those of his council were permitted to exercise their powers, saving his oath of fealty to the proprietary until the pleasure of the commonwealth should be known. As soon as Stone received intelligence of the elevation of Cromwell to the protectorate, he ordered him to be proclaimed but Clayborne still acting in the name of the commonwealth, alleged an intention on his part to avail himself of the earliest opportunity for a relapse and hence claimed for himself and his coadjutors, the privilege of remodelling the government. Stone was obliged to submit, was divested of his government, and its administration was confided to the commissioners deriving their appointment from Clayborne and his associates. Stone then made resistance, and a battle took place near the Patuxent, in which he was utterly defeated, taken prisoner, and condemned to death, but was not executed, the soldiers refusing to perform the service.

He, however, remained in prison during the greater part of the protectorate.— At this time, Virginia, assisted by some of the adherents of the parliament, who were in power in Maryland, endeavored to revive her old claims against the colony, and thus to deprive Baltimore of his charter, on the ground that it was obtained through misrepresentation as to the earliest settlements and relying, to sustain her claim, on rights obtained by such settlements. But, the matter being referred to the committee on trade and plantations, a report was made in favor of Baltimore's claim in 1656, and he again got possession of his province in 1658. For the purpose of regaining this possession, Josias Fendal, who seems to have been a treacherous and turbulent spirit, was commissioned as governor in 1656; and soon after in 1658, he succeeded in obtaining possession of the power, the protectorate commissioners surrendering the province by agreement into his hands. Having thus restored the proprietary government, in 1659, he attempted to usurp possession of the government, by surrendering to the assembly his commission from the

proprietary and receiving another in lieu of it from them. But the proprietary commissioned his brother, Philip Calvert as governor, who soon succeeded in wresting the government from the hands of Fendall, and then, as one of his first acts, proclaimed Charles the 11 as lawful King. In 1662, Charles Calvert, the son of the proprietor, was sent out as the governor, and remained in the province until the death of his father Cecilus in 1675, when he became the proprietary and immediately went to England. In 1676, a general revision of the laws, which had been much needed, took place, and those which were in force were definitely ascertained.

In 1680 the proprietary returned from England, having successfully answered some of the objections urged against his government, and remained here until 1684, when the prerogative power of the crown began to threaten the charter, and, the opposition of the proprietary to the oppressions of the mother country relative to the regulations of trade, which were made in defiance of his charter, rendered him obnoxious to the reigning sover-

eign. During his absence he left the government in commission, to be administered in the name of his infant son Benedict Leonard Calvert. He never returned to the province, having arrived in the old country in time to witness the accession of James II, and, though himself a catholic, to encounter serious designs on his rights from a Catholic monarch which however were frustrated by the Protestant Revolution. In 1677, a *quo warranto* was issued against his charter, but it was saved by the Protestant revolution which took place in 1688 and which arrested the course of the monarch in his stretch of Prerogative, and thus saved the charter. But in 1689, the Proprietary was divested of his government by the "Protestant Association," in the colony, which usurped and retained the power till 1715, and whose history we shall briefly detail in the next chapter.

SECOND ERA.

History of the Royal Government from (1686) to the restoration of the Proprietary (1715)—In 1689 an association was formed in the colony called "*An association in arms for the defence of the Protestant religion, and for assisting the right of King William and Queen Mary to the Province of Maryland and all the English dominions.*" It does not seem that there were many grievances to complain of at this time, though as there is a chasm in the records of the province from 1688 to 1693, the history of the times is not so full as to enable us to form our opinion upon the subject. The absence of the Proprietary from the colony, and the imprudent deputies in whose hands he had left the government during his absence, seem to have given the association an opportunity to easily reduce it into their possession. The deputies made a resistance, but were captured in a garrison at Mattapony in 1689, and the administration was taken into the hands of John Coode and his confederates. After the overthrow of the pro-

proprietary government, the association called a convention, and transmitted to the king an account of their proceedings, in which they bring various charges against the proprietary as to his filling all his offices with Catholics, and appropriating the churches to the uses of idolatry, &c., charges which seem not to have been borne out by the facts.

King William gave countenance to the revolution, and the provinces remained under dominion of the convention till 1692, when, in conformity to the wishes of the convention, he took the province under the Royal government, and placed at its head Sir Lione! Copley, as governor, who dissolved the convention. It was at this time that the church of England was established by law, and in 1704 (chapter 59) an act was passed to prevent the growth of popery in the province, and about 1706 toleration was extended to all dissenters. During this deposition of the proprietary, although he was deprived of his rights of government, yet he still continued in possession of his private rights, such as his right to the soil, and to the duties due him which, although sometimes encroached upon,

yet where in the general left in his hands. In 1694 the seat of government was removed from Saint Mary's to Annapolis, which soon became a place of some consequence, while the former place fell into decay. In 1695 a Post office was established by Governor Nicholson, which ran from a point on the Potomac through Annapolis to Philadelphia, eight times a year.

Early in the eighteenth century a project was set on foot in the mother country for the union of the colonies under one government, but it met with great opposition in Maryland and was afterwards abandoned. In 1715, immediately after the restoration of the government to Lord Baltimore an attempt was again made in Parliament to destroy the charter, but it was remonstrated against by the guardians of Lord Baltimore and was afterwards abandoned, and the proprietary of Maryland then remained in possession of the government until finally expelled by the Revolution.

THIRD ERA.

From the Restoration of the Proprietary (1716) to the Treaty of Paris (1763.) Charles Calvert died in 1714, and his son Benedict Leonard Calvert, who had embraced the doctrines of the Reformed Church, also died in 1715, leaving his title to his infant son Charles Calvert, who was educated in the doctrines of the Reformed Church.— Thus the causes of the suspension of the Proprietary government ceasing to exist, the claims of the Baltimore family, were duly recognised by the new monarch, George I, and a commission issued from the Proprietor and his guardian to John Hart, the late Royal Governor of the province. From this period down to the treaty of Paris, there were few occurrences of much interest transpiring in the colony,—the disputes relative to the extension of the English statutes and the measures of the proprietary occupying a large place in the attention of the assembly.

In 1751 Charles Lord Baltimore, (the fifth of that title) died, by which the government of Maryland devolved

upon his infant son *Frederick*.

In 1742 commissioners were appointed to treat with the six Nations of Indians to extinguish their claims to lands lying along the Susquehanna and the Potomac, by treaty, and in 1744 the treaty was signed at Lancaster by which their claims to the country were entirely and forever extinguished.

During the French war of 1754, Maryland was frequently called upon, and requisitions made on her for contributions, but not conceiving herself so immediately interested in the matter, she would not yield and make contributions to prevent a war which she did not deem likely to affect her own settlements;—though she yielded so far to the requisitions of the English government, as to send commissioners to a general convention at Albany with presents to secure the assistance of the Indians. The position of the French at Fort du Quesne, seeming to menace the frontier with danger, liberal appropriations were granted by Maryland to aid in defence of the frontier;—though violent disputes arose between the upper and lower houses as to the mode of assessment and taxation, which last-

ed for several years, especially the question as to the tax on convicts.— Maryland though sometimes apparently in danger, yet went through the war of 1756 without much real suffering and until the treaty of 1763 again restored peace to the colonies.

THE REVOLUTIONARY PERIOD.

From the Treaty of Paris (1763) to the Repeal of the Stamp Act in 1766, and thence to the Revolution in 1776.—

The treaty of Paris once more gave quietness to England, and by removing the rival power of France from the borders of the colonies, freed them from the continual apprehension of incursions of either those enemies skilled in the arts of civilized warfare, or from savage foes. The mother country, having now the leisure, began to turn her attention to the more complete subjugation of the colonies, and to the means of rendering them more subservient to her will, and tributary to her interests, by the payment of internal taxes, as she had heretofore compelled them to be by her commercial regulations.

In the histories of the times will be

found the successive steps which were taken by her to effect these ends. As long as the French living upon the borders of the colonies, and the savage foe could be instigated by them into their fearful incursions and depredations upon the colonial settlements and as long as she was herself distracted by foreign troubles, she did not attempt to enforce subsidies from them, but merely made *requisitions* on them for supplies which were sometimes conformed to by them and sometimes disregarded.— Her object now was to *compel* submission to these dictates of her power, by some settled law and prescribed regulations, and the quietness which now prevailed seemed to present a favorable opportunity to effect these purposes.

Maryland, as before stated, had submitted with the rest of the colonies to the navigation acts, and the restriction of her commerce, it was supposed, partly from the temper of the times in which these acts were passed, and partly from the acknowledgment of the right of parliament to regulate commerce and partly from a want of sufficient interest in the matter and ability to make it a serious cause of war. But when

the attempt was reduced into form to also impose on the colonies a settled system of internal taxation by the stamp act, the opposition to it was strong and universal. Frequent attempts had been heretofore made in the mother country to bring the colonies into a more complete state of vassalage, and, in fact, the attempts in 1701 and 1714 to destroy the charters and the proprietary governments, the bill introduced into parliament in 1748 to give the king's instructions the force of law, and make them obligatory on the colonies, and the plan for the union of the colonies, in 1753, whereby the whole of them were to be governed by an English commissioner, stationed at New York, with a standing force, may also be considered as belonging to the same series of measures which had for their object to reduce the colonies to more implicit submission, and which measures were to find their perfection in the *stamp act*, now attempted to be imposed upon the country.

These acts to restrain the commerce of the colonies, known as the **NAVIGATION** acts, alluded to above as having been submitted to by Maryland began

with the State. 12th Charles II ch 18, which prescribed that all imports or exports to the colonies should be carried in English vessels, and prohibited the exportation of tobacco and some other articles to any other country than to England. The 15th Charles II. ch 7. carried out the system, by prescribing that every European commodity should be shipped to the colonies only from England, and in English vessels. The 25th Chas. II ch 7 enacted, that if the articles were not shipped direct to England, then certain duties to be paid to the crown upon their export to other parts of the English dominions; intended to regulate the trade between the colonies themselves.— Thus did she strive to become the sole *carrier, manufacturer,* and engrosser of the trade of the colonies.

Independent of the general principles, which were acted upon in the colonies that taxation and representation should go hand in hand, the charter of Maryland *expressly exempted* that colony from taxation.

The course of Maryland in opposition to the stamp act was such as at first to make it appear that she did not

feel the same strength of hostility against it as the other colonies. This resulted from the fact that the power of assembling and proroguing the assemblies resided in the governor, and he probably wishing to prevent the exhibition of the popular feeling, continually kept the assembly prorogued from November 1763 to September 1765. When, however, it did get together, they indignantly remonstrated with the governor as to his conduct, and showed their feelings upon the subject by UNANIMOUSLY passing resolutions, of the strongest and most decisive character against the stamp act. They also soon indicated their feelings by the publications which appeared in the Maryland Gazette, a paper which had been established at Annapolis in 1745, and by the treatment with which they received Hood, the person who had been appointed as stamp distributor, whom they soon compelled to take refuge in flight.

The assembly of Maryland also, immediately after its session, appointed commissioners to a general congress, which was called according to a circular from the State of Massachusetts, to assemble at New York, to make a

representation to his majesty and the parliament of the condition, &c. of the colonies.

This congress accordingly assembled and remonstrated, and their proceedings were unanimously approved by the assembly at its next session. The stamp paper having arrived in Maryland after being detained for a while for the sake of safety in the vessel, was landed, but *not used* in Maryland. True it did for a time prevent the operation of some of the offices of Maryland which were required to use it; but the county courts declared the act requiring its use unconstitutional and void, and in 1766 a society was formed in Baltimore under the name of the "*sons of Liberty*" which soon spread through the State, & which attending in body at the seat of government *requested* the officers to proceed without the stamping paper;—a request which was complied with, and thus ended the operation of the stamp act in Maryland. Shortly afterwards, on the 18th of March 1766, it was fully repealed by Great Britain, on the grounds that "its further continuance might be productive of consequences greatly detrimental to the commercial interests of

Great Britain." The unanimity of the people of Maryland against the stamp act was perhaps greater than that in any other colony, and the disregard that they had been in the habit of paying to the *requisitions* of the authorities of the mother country, well prepared them to resist any attempts to impose taxes upon them, in defiance of their charter, without their assent.

THE REVOLUTIONARY PERIOD CONTINUED.
ED. FORMATION OF STATE GOVERNMENT.

From the Repeal of the Stamp Act (1766) to the Revolution and Formation of State Government (1776-7.)—

Although the stamp act had been repealed in 1766, and a more favorable feeling evinced towards the colonies by the new administration in England on the defeat of Grenville and the accession of Townsend, yet the favorite scheme of taxing the colonies had not been abandoned. In 1767, Parliament passed a new act imposing duties on paper, glass, tea, &c., supposing that if the colonies would not submit to direct taxation they might yet be willing to allow the regulation of commerce, which would result in effecting the same

object. In this however, they were mistaken; for the object was at once perceived, and the remonstrances against it were strong and loud. Massachusetts took the lead in this opposition by her circulars and by arousing the other colonies to concerted opposition. Attempts were made by the Ministry, in their communications with Governor Sharpe, to discountenance any "unwarrantable combinations" on the part of Maryland with the other colonies, by directing him to prorogue the assembly if it should manifest any such disposition. The House however indignantly repelled the attempt to prohibit such combinations and when called together in 1768, the first thing after the passage of the act for laying this duty, they failed not to vindicate their rights, by appointing a committee to draft a petition to the king, by seconding the Massachusetts Circular, and by insisting on their rights, with the greatest unanimity. In 1769 a meeting was called at Annapolis which was fully attended from the different counties, at which it was resolved to form *non-importation Associations*, and which was carried into operation with much strict-

ness for a while, but gradually in course of the ensuing year was rendered ineffectual by the want of a general co-operation, and was therefore shortly after, abandoned.

About this time Maryland was much agitated by two questions relating to its own internal concerns, which filled the colony with excitement and were debated with more warmth and fervor and with more intelligence and skill from the talents of the parties who engaged in the controversy, than perhaps any question had before called forth in the State. These questions were what were known by the names of the "*Proclamation Act*" and the "*Vestry Question*." The colony complained of the exorbitance of the fees of some of the offices of the colony, the abuses in their collection, and the uncertainty of the commutation, (that is, where the fees payable in tobacco, were commuted for money.) The assembly had usually regulated the fees by temporary acts and thus held the power over the office-holders, who held their appointments from the proprietary. These acts were now allowed to expire, and in consequence, the governor issued his pro-

clamation, declaring that the fees should be regulated according to the expired acts. This excited the most intense opposition on the part of the people and gave place to warm discussions and essays from the most distinguished and learned men of the province. Among those, who advocated the act were Mr. Daniel Dulany, one of the most talented and eminent lawyers in the colonies, and Mr. Hammond and others; while on the other side were arrayed Messrs. Samuel Chase, Charles Carroll, Paca, &c. The question continued to be the main topic of consideration until engrossed in the still more exciting themes arising at the outbreak of the Revolution. The people of course in their elections decided against the Proclamation.

The "Vestry act" was one of a kindred character. When the church of England became the established church in 1692, a tax of 40 lbs. of tobacco had been laid on each taxable for the support of the established clergy which was still further regulated in 1702. In 1763 this tax was reduced to 30 lbs of tobacco. But when the fee bill was suffered to expire, the procla

mation of the governor established again the more odious tax of 1702, which therefore created the greatest opposition. In 1773 by a kind of compromise, the poll tax was regulated at 30 lbs of tobacco or 4s. in money,—and thus the controversy was ended until the Revolution finally cut off this tax entirely, rendering the clergy always afterwards dependant on the voluntary contributions of the people for their support, the poll tax being prohibited at the adoption of the new government.

The attempt to tax the colonies by the imposition of duties, had now been abandoned by Great Britain, with the exception of the article of Tea, the duty on which was still maintained as a pledge of the supremacy of the mother country. The resolutions of the non-importation associations not to use it, still continuing in force, the trade in the article was diminished, and the attempts of the East India company, under the allowance of a drawback, to introduce it into Boston and other ports is too generally known to need further mention here. After the burning of the tea in that harbor, Boston was deprived of its privileges as a port of

entry, and the rest of the colonies, seeing the tendency which this would have made common cause with her in this time of oppression. In all directions, the greatest excitement prevailed. At Annapolis, the like attempt to bring tea into the province created so much opposition that the people came together and compelled the person who had dared thus to insult the public feelings to make atonement, by himself applying the torch to the vessel in which it was brought. Public meetings were at once called in all the counties of Maryland, the deputies from which met at Annapolis on the 22nd June 1774, in a convention which continued in session to the 25th. By this convention, resolutions dignified and manly, expressive of their rights, and determination to maintain them, were passed, and five persons named to attend a general congress of the deputies of the colonies.

This continental Congress accordingly assembled on the 5th September 1774, at Philadelphia. A non-importation association was recommended to be formed throughout the colonies, which was accordingly done. On the return of the Maryland Representatives, the

Maryland Convention was again convened by their call, on the 21st November 1774, and an account of their proceedings given, which were approved of. The non-importation association was approved of and measures taken by the appointment of committees of Inspection and of Observation to render them effectual.

In July 1775 the state convention finding that all efforts at reconciliation would prove unavailing, established a "*provisional government*," for the administration of affairs in the colony, until some more permanent system should be formed. The chief Executive power was confided to a committee of safety, consisting of sixteen members elected by the convention. The supreme power was reposed in the Provincial Convention, of five delegates from each county; and the county authorities were committed to committees of observation, elected annually in each county.

This government with some modifications continued in force until the establishment of the present form of government in 1776.

When the proposition came distinctly forward and was presented to the

consideration of the convention as to the Declaration of Independence, Maryland soon agreed to it, although for a long time desirous of conciliation.

On the 6th of July 1775, a state Declaration of Independence was made, and formally proclaimed.

The old convention, after the calling of a new convention for the establishment of a permanent government dissolved itself on the 1st, August 1776.

The new convention being formed, its members assembled at Annapolis on the 14th August 1776; and on the 10th September, the special committee reported the new form of government and charter of rights, which were published. The convention adjourned to the 2nd October, when they again met, and adopted the constitution on the 8th and the Declaration of Rights on the 3d November, and finally adjourned.

The first assembly of Md. under the new constitution then met on the 5th February 1777, and the new government was fully organized on the 13th and 14th of that month, by the election of Thomas Johnson, as the first governor and of five councilmen. And thus was the government of Maryland started,

into full operation.

Having thus run briefly through with the history of the state up to the period of the Revolution let us next glance over the Introduction of the Common and Statute law into the state and then at the leading objects of Legislation in the state at various times; and also sketch out the history of the connection of the state with the General Government, and the formation of the U. S. Constitution.

LEGISLATION!

MARYLAND. CHAPTER I.

THE COMMON AND STATUTE LAWS.

History of the Introduction of the English Common Law into Maryland.

In the first assembly of whose proceedings, we have any record, commenced the discussion of the question "*By what laws the colony should be governed.*" The proprietary transmitted a body of laws from England for adoption by the assembly, but they were rejected by that body. In the early settlement of the colony, the common law was considered as in force, except where its operation extended to *life, member, or freehold* which by the charter, could not be taken away except by some *express* law of the province.—Several acts were passed upon the subject, and that of 1662, chapter 3, directed that justice should be administered according to the laws and statutes of

England if pleaded and produced, “and that all courts should judge of the right pleading and inconsistency of the said laws with the good of the province, according to the best of their judgment skill and cunning.” This act engrafted the common law into the jurisdiction of the province, and although it soon ceased in its operation, yet the *commissions issued to the judges* sanctioned it as a rule of jurisdiction, and the common law then became in fact a part of the law of the province. Nor does this right of the people to the privilege of the common law seem to have ever come into question—for in the address of the lower house to the proprietary in 1725, they say “but since we mention the common law, we beg leave to observe concerning it, that we do not apprehend your lordship denies us the benefit of it, as being (by the common received opinion of the best Judges) allowed to be our right; but ’tis the statutes only you deny us.” This right however, was fully established at the adoption of the 3d Article of the Bill of Rights, which states “that the inhabitants of Maryland were entitled to the common law of England and the trial by

jury, according to the course of that law."

In the case of *State vs. Buchanan*, prosecuted for a conspiracy, (5 H. & J. 357,8) and in which the prosecution was sustained, the question as to the extent of the application of the English common law to our state is decided on and the principle laid down as follows:

"It is a mistake to suppose that the decisions, subsequent to the charter, are expansions of the common law, which is a system of principles not capable of expansion, but always existing and attaching to whatever particular circumstances may arise and come within one or the other of them;" and in *adverting to the argument from non-user*, they reply, "that as to the common law, unlike a positive or statute law, (the occasion or necessity for which may have long since passed by,) if there has been no necessity before for instituting such a prosecution as the present, no argument can be drawn from the non-user, for resting on principles which cannot become obsolete, it has always potentially existed, to be applied as occasion should arise;" and, in conclusion, they pronounce the existing rule

of application under the bill of rights, which cannot be better stated than in the words of the opinion. "The language of the 3d section of the Bill of Rights, (says the opinion, in declaring the people of Maryland entitled to the common law,) has no reference to adjudications in England anterior to the colonization, or to judicial adoptions here of any part of the common law during the continuance of the colonial government: but to the common law in mass, as it existed here either potentially or practically, and as it prevailed in England at the time; except such portions of it as are inconsistent with the spirit of our present government, and the nature of our own present political institutions."

2d. *History of the introduction and operation of the English Statute Laws in Maryland.*—The nice distinctions which often exist between the *statute* and *common law* do not seem to have been always referred to in the broad discussion of the question, as to whether the *English law* was to be considered as in force in the province. The general rule which prevailed was, that in *Criminal* cases, not affecting life,

member, or freehold, the express laws of the province, if there were any such governed; if there were none, then the laws or usages of England, in like cases. In *civil* cases, the decision was according to the acts and most general usage of the province; and if there were none such then according to the usages of the English law, so far as they were applicable. The act of 1662 (chapter 3) directed that where the laws of the province were silent, that justice should be administered, according to the laws of England, if pleaded and produced. And although, this act was subsequently repealed yet, from the commissions of the judges, the exercise of the power seems to have been kept up and decisions given in conformity to the laws of England in cases where the statutes were made after the emigration as well as before, whenever the laws of the province were silent. Much legislation and controversy was had upon the subject; the people of the province desiring to have the whole mass of the English statute law introduced at once, and the Proprietary contending that this was unreasonable, and that he would not consent to such a general introduction,

unless the judges were permitted to decide upon their consistency with the constitution of the Province. This opposition of the people arose from the repugnancy that existed on their part to giving him the exercise of the Veto power which he had over their legislation; for they contended in such case "they would then hold them (the right to the statutes) by the precarious tenure of the Proprietary's pleasure, in yielding or withholding his assent."

About the year 1722 the controversy as to the extension of the statutes commenced to rage more warmly, dividing the colony into the "Court Party" and "The Country Party," the latter of which contended for the introduction of all the statutes in a *lump*. After various discussions and disputes between the proprietary and the House of Delegates, in which the form of the oath of the judges was brought into controversy, it was finally compromised by the act of 1732 chapter 5, which received the proprietary's assent, and in which it was prescribed that the acts and usages of the province should be the primary guide; and when these were silent, the decision should

be according to the laws, statutes and reasonable customs of England *as used and practised within the province.*— This allowed the *future* introduction of English statutes, and thus it continued down to the Revolution, at which time the 3d section of the Bill of Rights, declared, “that the inhabitants of Maryland were entitled to the benefit of such English statutes as existed at the time of the first emigration, and were found applicable to their local and other circumstances; and of such others as have been since introduced, used and practised upon in courts of law and equity.” In 1809 the legislature empowered the Chancellor and Court of Appeals to report which statutes came under this definition, in conformity to which the Chancellor made the report spoken of in another place.

When by English Parliament a statute was expressly declared to extend to the Province, it was of course held to be binding on the colony.

CHAPTER II.¹¹

LEGISLATION IN MARYLAND.

It is sometimes useful to recur back to the past, and to note the various subjects of interest which have from time to time agitated the public mind, and see how one question gives place to another, and the violent disputes and controversies of one generation, upon which, according to the controversialists, would seem to hang the fate of all posterity, are almost forgotten in the succeeding age. Still, however, their influence is felt in moulding the character and forming the habits of the people, who are affected by them. In Maryland, many of these questions, which at times have threatened to convulse the state to its very foundation, are now only known to the antiquarian or the historian, and many subjects of the warmest and most angry controversy, once much debated, have been swept away with the Revolution. Let us take a glance at some of the subjects which have occupied the minds of the people of

Maryland, and herein let us consider these changes in their chronological order, noting the centuries in which they have taken place and their relation to either the Proprietary or colonial government or to the state Government.

In the first Assembly which convened in the Province of Maryland in the year 1637, a question arose, as to the *laws by which the colony should be governed*, and this was for a long time a leading subject of discussion and of violent controversy in the Legislature and among the people, and, there are few, we should suppose, who would be disposed to question its importance.— In the year 1638, the body of laws, transmitted by the Proprietary for the government of the Province were *rejected* by the Legislature, which preferred the making of their own laws.— In the year 1644 Clayborne and Ingle got possession of the colony and held it until 1646, during which time all the *early records of the Province were lost*, which leaves a considerable hiatus in the legislative history of Maryland.

In 1646, the *port or tonnage duty* originated, and subsequently afforded

some most acrid and violent controversies in the province, in 1649 they were exchanged for a duty upon tobacco exported in Dutch vessels; in 1661, 1676, and 1692 the subject of these duties were again and again discussed, and in 1739 the complaints against them as oppressive and onerous, arose to a high pitch and no doubt contributed much to the dissatisfaction which prevailed against the system of government which then existed.

About the year 1671, the amount of the Proprietary's *quit rents and commutation money* began to occupy much attention, which was again directed to the same subject in 1717 and 1735, at which time great efforts were made to have it commuted;—The same subject also continued to be discussed in 1737, 1742 and 1744.

In 1671, ch. 11, commenced the *Tobacco duty* for the support of the proprietary and defence of the province, continued in 1674 and 1676; legislation on it was continued in 1704, 1716,–17; it expired in 1732; in 1739 it began to be loudly complained of, and in 1750 the controversy revived with much

warmth. The Revolution put an end to this controversy.

In the year 1676 on the death of Cecilus, Lord Baltimore, and the accession of Charles Calvert, and just before his departure for England, *a revision of the Laws* of the Colony took place.—“At this assembly (says McMahon 215) the legislation of the province was rescued from the confusion and obscurity which had characterized it for some years from the want of a regular expression of the Proprietary will upon the acts from time to time passed, and from the enactment during that period of various acts upon the same subject, and tending to the same purpose. A general revision of the Laws then took place, under which those then in existence and proper to be continued, were definitively ascertained” 1676 ch. 1 & 2.

In the year 1683 the *seat of government* was removed from St. Mary's to the *Ridge* in Anne Arundel, but was again changed back to St. Mary's.—In 1694, it was removed to Annapolis; which was erected into a city in 1708.

In the year 1696 a board of “Lord Commissioners for trade and Planta-

tions" were established in England whose duty it was to obtain full information as to the *trade* and *general condition* of the colonies. In 1697 inquiries as to the statistics of Maryland were answered by the government from which is derived the body of the statistics of the State during this period.

In 1715 the Law of *attachments* was first introduced into the Md. system.

From 1722 to 1732, a very warm contest was carried on between the Assembly and the Proprietary as to what *English statutes* were in force in Maryland, which during this period occupied much of the public attention (see McMahon 283).

In 1722 also an important act for the regulation of *fines* and *amercements* was passed; in 1745 it was determined that these were a public fund and not the property of the Proprietary;—an important matter to the people of the Province.

In the year 1739, the *alienation fines* (that is a fine paid the Proprietary at every transfer of property) were much complained of in the province and in 1742 they were abolished. Indeed about this period, the dissensions in the

Province as to the Proprietary's Revenue became quite aggravated and his right to levy tonnage duties and other duties was discussed before the Assembly.

In 1742, fines upon alienations and duties were relinquished by the Proprietary; in 1747 Officer's fees were established by law; but the tobacco and tonnage duties were continued down to the time of the Revolution.

In 1754-5 preparations were making in the province for the common defence and controversy ran high as to the mode of levying a tax for the defraying of the expenses of the war, and the disputes continued as to the right of the Proprietor to the revenue of the colony.

In the year 1756 the passage of the stamp act and the right of taxation occupied the attention of the assembly;—resolutions were passed;—members to the Congress were appointed, and the papers abounded with essays on the subject.

In 1766, the Association of the Sons of Liberty was formed in the province against the stamp act.

In 1767-8, the Duty act and the Non-Importation Associations occupied

the public attention.

In 1770 came up the question as to Fees and the Vestry Bill, arising on the Proclamation of Governor Eden continuing the old acts in force. These subjects engrossed the public attention until the Revolution superceded them.

In 1774 the Maryland Convention met at Annapolis and the Association was adopted by it and encouraged, and in the next year, 1775, the Provisional Government was formed.

In 1786, ch. 45, the mode of descent of property was regulated, and the primogeniture laws abolished in Maryland.

In 1793 the present Testamentary system was established in Maryland, and systematised.

In the beginning of this century (1800) there seems to have been a singular usage to merely re-enact, in almost the same words a previous act (Evans' Prac. 245.)

In 1801, ch. 90, white persons alone were allowed to vote, and in 1809 the property qualification was removed.

In 1805 the present system of *County Courts*, &c., was established, and in 1809 the *Penitentiary* system was introduced and the criminal laws passed.

In 1814 the county Courts were endowed with full equity jurisdiction.

From 1811 to 1815 the war with Great Britain and the defence of the State occupied the public attention.— After the war, the difficulties of the times and the suspension of specie payments by the Banks gave rise to some legislation.

In 1820, ch. 191, the act to direct descents was newly arranged and systematised.

In 1827, ch. 104, the first appropriation was made towards the *Internal Improvement* system, which had been much discussed for some years before. This subject continued to occupy much of the public attention for some years, and in 1835-6 the great *eight* million bill was passed for the perfecting of the whole system; but direct taxation had at last to be resorted to.

In 1836 a radical change was made in the Constitution by a new organization of the Senate and an election of the Governor by the people; and by the abolition of the Council to the Governor.

THE GENERAL GOVERNMENT

ESTABLISHED.

CHAPTER I.

FORMATION OF THE UNITED STATES GOVERNMENT.

Frequent unions of the separate colonies which now compose the United States, had taken place previous to the Revolution, and seemed to prepare the country for the more perfect union which took place subsequent to the Declaration of Independence and under which we now live.

As early as 1643 there was a union of the colonies of Massachusetts, Plymouth, Connecticut and New Haven, and two commissioners were delegated from each colony to meet annually to deliberate on matters of common concern, and provide for the general defence. This confederacy existed for upwards of forty years and was finally dissolved in 1686, about the

time that James II vacated all the New England charter.

Leagues were also sometimes entered into between the colonies for the protection of the interior from the attacks of the Indians:—thus, in 1722, a Congress was held at Albany, and in 1754, at the instance of the board of trade and plantations, commissioners assembled from all the New England States, as also from Pennsylvania and Maryland, to consider the best means of defending the country in case of a war with France. The Congress, however, when assembled very naturally took a more enlarged view of their duties, and entered into measures and projects for the general welfare of the colonies in peace as well as war. The result of this was, that the people became habituated to plans for concert of action, and to that kind of self-reliance which was more fully developed at the time of the Revolution. This convention proposed a more intimate union of the colonies for defence and mutual aid and with power to levy import duties and taxes; but the people were not yet quite prepared for so bold a measure, and it was then rejected both by the crown and

every provincial assembly.

The jealousy of the mother country on the one hand, and the rivalry existing between the separate colonies, each one of which had always heretofore looked to its own individual interests, may probably account for this general rejection of the proposition at this time.

In 1765, when the first attempt was made by Great Britain on the rights of the colonies, at the instance of Massachusetts, a congress assembled at New York, delegated from nine of the colonies, which published a bill of rights in which they declared the sole power of taxation to reside in the colonial legislatures.

But in 1774 (September) a more general Congress, in which the twelve colonies were represented, took place at Philadelphia, and then boldly set forth their grievances and the oppressions that they had suffered in the unjust attempt made by the mother country to tax them without their consent. They had no power or authority further than to recommend and advise, but, "by their lives, their fortunes, and their sacred honors," they nobly bound

themselves to resist oppression and tyranny and to deliver down to their posterity the right to those blessings of liberty which they had enjoyed from their ancestors.

In May 1775 Congress convened again at Philadelphia, and Georgia being now represented also, the "old thirteen" stood boldly forward to breast the Revolutionary storm, which was then commencing to rage in Massachusetts. This congress, being authorised by those who had sent them together to concert and agree upon such measures as might be proper to preserve the liberties of the country, proceeded to levy and organise an army, to contract debts, to prescribe rules for the government of the land and naval forces, and to exercise all the other powers of sovereignty, and to complete their designs, on the 4th of July 1776, they marked a new epoch in the history of the colonies by declaring their independence of the Mother country — In this declaration they set forth the grievances under which they labored and the reasons which induced them to take a separate stand among the nations of the earth.

As early as June 1776 Congress undertook to propose articles of confederation and from the intrinsic difficulties of the subject and the conflicting interests which had to be reconciled it was not until the 15th of November 1777 that they succeeded in coming to an agreement on these articles of confederation. These articles had then to be submitted to the States, and altho' most of the states proceeded to ratify them immediately, yet Delaware did not accede to them until 1779 and Maryland at first explicitly rejected them. She refused to assent to the articles of agreement until there should be an additional agreement to appropriate the Western lands as a common fund to defray the expenses of the war.

This, however, gave such encouragement to the common enemy that she afterwards abandoned these pretensions and in March 1781 the articles of confederation were unanimously ratified by all the states.

Previous to the adoption of these articles of confederation the authority of Congress had been undefined and discretionary; such authority as springs from the immediate wants and pressing

necessities of the times, which bind into unity of action, those who are borne down by common oppressions and general calamities.

These articles of confederation were not found however to answer the purposes for which they were adopted.—Operating as the decision of the Congress did upon the States themselves instead of upon the people of the States there were no adequate means of enforcing their penalties. Having no power to add a sanction or a penalty to their laws, they were neither enforced nor observed. Nor were they able to decide controversies which might arise among the States, or to protect them from internal violence or rebellion.—Requisitions upon the States for the supplying of the wants of the country were entirely disregarded, and by degrees the States, one by one, fell off from the confederation, neglecting even, to send members to Congress.

With the peace of 1783 came a general apathy and relaxation from effort, and the confederation soon crumbled into ruin.

To remedy the evils under which the country soon began to languish, it

was necessary that some further efforts should be made. Accordingly a proposition was started by Virginia for a convention to regulate our commerce and relations with foreign Nations. Thereupon, a convention of delegates from several of the States met at Annapolis in September 1786, but from the smallness of their number, they did not think it expedient to proceed to remedy the evils which existed, and satisfied themselves with calling a general convention which should adopt suitable measures for the formation of an efficient government for the control of the country and which might obviate the defects existing in the old confederation.

All the States, except Rhode Island, acceded to the suggestion, and sent delegates who met in general convention in Philadelphia, May 1787.

This convention, composed of the most influential, experienced and able men of the country, after several months deliberation, and a compromise of the difficulties which seemed to oppose almost insuperable barriers to the accomplishment of their plans, succeeded in agreeing upon our present form of government, and submitted it to the

decision of a convention of the people to be held in each State for their ratification or rejection.

It was also agreed that so soon as nine States should agree to it, that the Constitution should become the government of the States so adopting. New Hampshire was the ninth state to adopt it; soon after which, New York and Virginia also agreed to it and upon the 4th March 1789, it went into operation. North Carolina and Rhode Island continued for some time to withhold their assent and it was not till June 1790 that it received the unanimous assent of all the states of the old confederacy. By this adoption by the people, after full deliberation and dispassionate consideration of its merits, of the Constitution, the government under which we now live acquired that vigor and stability which was necessary to render its action efficient and salutary for the benefit of the people.

Let us next briefly recur, even at the hazard of some repetition, to the introduction of the laws of England into our State, and to the adoption of the Bill of Rights and the Constitution.

STATE GOVERNMENT

MARYLAND

RELATIVE TO THE LAWS, DECLARATION OF RIGHTS AND CONSTITUTION.

For the purpose of properly understanding the origin of our laws in Maryland and their growth out of, their connection with, and their dependence on the English law, it is necessary to take into view the early history of the colony, the character of the persons by whom, and the circumstances under which, the settlements were made, and how the government was administered. In England, the lawyers trace the connection of their law with the fœdal system, the civil law, the canon, or the ecclesiastical law, and the old saxon customs;—but in America, the fœdal system never obtained root in its strict military vigor, and the laws were only so affected by it, as they had grown up in the mother country and been imported into the colonies, modified by its influence; and the canon, or

ecclesiastical law, had but a slight hold if any, in a country, which had been resorted to purposely as a refuge from religious requisitions and persecutions. The institution, however, of a Proprietary Government and the novel rights growing out of such an establishment, the dependence of the colonies on the government of the country from which they emanated, and the enacting and the administering of laws by newly established tribunals, often proceeding without precedent, or previously established forms, all give the laws of the colony a certain peculiarity of form and character even before its separation from the mother country:—but after this event, the revolution itself, the establishment of the Federal Government, and the connection of the State and the Federal governments, all involve questions of importance and interest requiring deep attention and an accurate investigation for their solution. To show the origin of the law, to trace it back to its source, to inquire whether it sprung from the necessities and the invention of the colonists themselves; or whether, it originated in the common or statute law of England; or whether

it may claim the more venerable parentage of the fœudal system; and also to inquire the manner in which it may have been altered or modified by its application to the province or the state, are all questions requiring investigation as serving no less to throw light on the dark points of the law as it is at present, than being calculated to gratify the laudable curiosity of the mind of the antiquarian.

The Westminster Review (in an article copied into the Museum No. 120. p. 611,) says: "It was a principle with our ancestors, who founded the old colonies, to carry along with them such parts only of the usages of the mother country, as should be suitable to their new circumstances abroad, a principle recently neglected, but capable of being applied to all the arrangements of society, and calculated to promote the well being, by encouraging the individual energies of the people. In ecclesiastical affairs, this saved the colonists from tithes and ecclesiastical courts; in civil affairs generally, it led to the establishment of local and popular government, divested of those privileges and pretensions which had been suffered to

accumulate at home; and in the practice of the law, it banished from the colonial courts a great part of the technicalities of Westminster Hall, inasmuch as it was at home only that ancient offices and exclusive ranks existed, to whose interests those technicalities were subservient, and by whose agency they were exercised.

The last instance regarding the law, is familiar to those acquainted with the progress of our colonial possessions, and was put in a strong light by Sir Mathew Hale two centuries ago, in the following terms; "Concerning the plantation of Virginia, New England, Bermuda and other islands and continents towards the West Indies, and also our plantations in Africa and the East Indies, the course of their acquisition was, that the king issued a commission to seize them; thus Virginia, and New England were seized, 4 Jac. I; Greenland and the northern plantations, 1 Phil. and Mary pat. 3, and divers others. Presently upon the acquist, the English laws are not settled there, or at least only temporarily, till a settlement is made; and, therefore we see their administration of justice and law, much dif-

fering from the English law, but the people carry with them those English liberties which are incident to their persons!"—*Lord Hale's Prerogativa Regis.*

Origin of the law making power.—Nature of the Charter;—The Origin of the Declaration of Rights and its connection with and relation to the Constitution.—The first settlement of Maryland was made on Kent Island, in the year 1631, by Clayborne; and in the year 1632, Charles the first granted a patent to Lord Baltimore. This *charter*, after defining the limits of the State, declared the colony to be entirely separated from Virginia and to be immediately subject to the crown of England. Lord Baltimore was created absolute Lord and Proprietary of the Province, and invested with all the rights which any Bishop of Durham in the county Palatine of Durham, in the kingdom of England, had ever enjoyed. He was to hold this of the king of England, "in free and common socage by fealty only for all services, and not in capite, or

by knights service; yielding 'therefor two Indian arrows of those parts, to be delivered at the said Castle of Windsor, every year on Tuesday of Easter Week; and also the fifth part of all gold and silver ore, which should happen from time to time to be found within the aforesaid limits.'—(Land holders A. 12.) 'The seventh section of the same charter grants unto the said baron and his heirs, for the good and happy government of the said province, free full and absolute power, to ordain, make and enact laws of what kind soever, according to their sound discretion, whether relating to the public state of the said province, or the private utility of individuals *of and with the advice and assent and approbation of the free men of the same province, or of the greater part of them, or of their delegates or deputies whom we will, shall be called together for the framing of laws,* when and as often as need shall require, by the aforesaid Baron of Baltimore and his heirs, and in the form which shall seem best to him or them, and the same to be published and duly to execute.' Thus early do we find provision made for representative legislation.

In the next section, however, this proprietary, himself or by his representatives, is authorized "to make and constitute fit and wholesome *ordinances*, to be kept and observed for the better government of the people inhabiting in the province, provided the said ordinances do not extend to oblige, bind, charge, or take away the right or interest of any person or persons of or in member, life, freehold, goods, or chattles."

It will thus be seen that the proprietary *alone* might pass *ordinances*, though he was to call together the people or their deputies, to make *laws*.

The charter also gave to the proprietary the powers of a captain general, authorized him to repel invasions, to pursue, captivate, and put to death his enemies, to exercise martial laws, to impose taxes and subsidies on articles imported and exported, the product of which taxes was given to the proprietary forever, and it was covenanted on the part of the king, that he nor his successors should ever impose customs, taxes, quotas, or contributions whatsoever upon the people, their property or their merchantable commodities laden within the province.

It may be remarked of the grant to Lord Baltimore, not only that the powers authority and privileges, extend beyond all former grants, but that it contained no clause, obliging the proprietary to submit the laws, which might be enacted, to the king for his approbation or dissent; nor any reservation of the right of the crown to interfere in the government of the province. The grant by stipulating that the proprietor should enjoy all the prerogatives which the Lords Palatine of Durham *ever had* enjoyed, comprehended all the original powers of the counties Palatine in England, the owners of which had in their counties *jura regalia* as fully as the king had in his palace; they had the power of pardoning treasons, murders and felonies, of appointing all judges and justices of the peace; all writs and indictments run in their names, as in other counties, in the name of the king, and all offences were said to be done against their, and not, as in other places, against the peace of the king.—(L. A. 12.)

Declaration of Rights and Constitution.

It was in accordance with this char-

ter that Maryland was governed, with the exception of the time when violence prevailed and of the short period during the Commonwealth, between the years 1654 and 1658, (L. A. 20) to the time of the American Revolution, when the people assumed the power into their own hands, exercising it through the means of delegates, who first met in convention at Annapolis in the year 1774. From this time the power of the Lord Proprietary may be considered as having been transferred to, and subsisting in the *State Conventions*, for the 41st. Art. in the Bill of Rights declares that the subsisting resolves of the several conventions held for this colony, ought to be in force as laws, unless altered by this convention, or the legislature of this State.

There was a convention, which assembled in 1776, in Maryland, and which instructed the delegates whom they had sent to the general convention to vote for the Declaration of Independence which accordingly was proclaimed on the 4th of July of that year.

And at a convention elected for the express purpose and which assembled on the 14th August 1776, the Declara-

tion of Rights for Maryland was assented to and passed by the delegates of the freemen of Maryland, and was agreed to by them on the 3d of November 1776,—and the *Constitution*, which filled as it were the outlines laid down by the declaration of rights for the formation of government, was adopted in accordance with the *Declaration of Rights* of Maryland. These may be considered as lying at the foundation of the existence of the present form of government, because the people, when they first separated from and laid off their allegiance to Great Britain, as the people of an independent State put forth these documents as showing the rights which they claimed, and the maxims of government for which they contended and by which they would be regulated.

A declaration of rights is merely intended to set forth and insist upon the prominent principles, the unalterable and fundamental laws and maxims, the incontestible rights, which are contended for, assumed, and enforced, and which are supposed to constitute the essence of a free government. These papers appear to be an invention of

modern States, and in England we find nothing similar. Their *Magna Charta* may be considered as most nearly approaching those documents which constitute the outlines of our government. (See Kent Com.)

The Declaration of Rights in Maryland, starts out with the assertion that, "the Parliament of Great Britain by a declaratory act, having assumed a right to make laws to bind the colonies in all cases whatsoever, and in pursuance of such claims endeavored by force of arms to subjugate the United Colonies to an unconditional submission to their will and having at length constrained them to declare themselves Independent States, and to assume government under the authority of the people; Therefore, we, the delegates of Maryland in free and full convention assembled, taking into our most serious consideration, the best means of establishing a good Constitution in this State, for the surer foundation and more permanent security thereof, *declare*, that all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole."

The third Article declares, "that the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed at the time of their first emigration and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England or Great Britain, and have been introduced used and practised by the courts of law or equity; and also, to all acts of Assembly in force on the first of June, 1774, except such as may have expired, or have been or may be altered by acts of convention or this declaration of rights; subject, nevertheless, to the revision of and amendment or repeal by, the legislature of the State; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his majesty Charles the first, to Cecilius Calvert, Baron of Baltimore."

This article of the Declaration of Rights may be called the *connecting link* which binds the laws of Maryland to their original sources in the mother

country and holds them connected together;—and as prior to this article there were two bodies, to wit; the English Parliament, and the Assembly of Maryland together with the Proprietary, which might pass *laws* affecting the colony, so after the passage of this bill, the General Assembly of the State alone could legislate for it, until the formation of the present General Government in year 1789, when the State surrendered up to the United States certain of its sovereign powers, for the more effectual promotion of the common weal.

The Court of Appeals of Maryland has incidentally decided the Declaration of Rights to be a part of the Constitution. (Sec. 1st. Gill and Johnson 473 &c).

It will be perceived that the Declaration of Rights of Maryland was adopted in August, about a month subsequently to the Declaration of Independence by the Congress of the United States, and it was confirmed by the people of Maryland in November following &c.

Let us now briefly recapitulate in their chronological connection, some of these leading facts: We find that in

the year 1632 the charter of Maryland was granted empowering the Proprietary by and with the advice of the delegates or deputies of the freemen of the State to pass *laws*;—or, empowering the Proprietary alone to pass *ordinances*, which do not affect the interests of any person or persons of or in member, life, freehood, goods, or chattles. It was at one time a much mooted point how far the laws of England extended to the province &c. as may be seen, Kilty's R. S. pp; 176 and McMahon's Maryland page 112 &c. It seems from 3rd Art. of Declaration of Rights that while power was thus given to legislate that not only such statutes as were in force in England at the time of emigration but also such others as were passed subsequently and found applicable to the province or "had been introduced used and practised in this State" were also introduced. And thus it continued down to the year 1776, when the declaration of rights cut off the power of legislating for the province from the Proprietary and from the English Parliament, and vested it in the General Assembly of the State, exclusively, until the year 1789, when the

United States government went into operation, and certain powers of legislation enumerated in the United States constitution were exclusively vested in it. And from that to the present time the government has thus continued.

From the above it will be seen that only such statutes of England as had been in force prior to the Declaration of Rights, (1776) and as were *found applicable* to the circumstances and condition of the province, were to be adopted as being in force in this State. Of course it becomes a matter of moment at once, to determine what statutes were considered as applicable and which were not so. This of course presents a question to be determined by the courts of our State, whenever it may arise.

The principal authority however in reference to the applicability or inapplicability of the statutes of England are now to be found in "Kilty's Report of Statutes."

This was a work prepared by William Kilty Esq. Chancellor of Maryland, in accordance with a resolution of the legislature of Maryland in the year 1800, and published in the year 1810

and comprised in three parts, the *first* containing the titles of such statutes as had not extended to the Province; the *second* of those which had extended; but *were not proper* to be incorporated, and the *third*, of those which had extended and *were proper* to be incorporated.

In reference to this book, the Court of Appeals of Md. (5 H. and J. 403.) observes "This view of the third section of the Bill of Rights raises the question, which of the statutes existing at the time of the first emigration, had by experience been found applicable? The only evidence to be found on the subject is furnished by Kilty's Report of Statutes, in which the 43 Eliz. is classed among these which are said not to have been found applicable.— That book was compiled, printed, and distributed under the sanction of the State, for the use of its officers, *and is a safe guide in exploring an otherwise very dubious path.*"

So that it seems that if Kilty's Report of statutes be not absolute and conclusive evidence, yet that it is *prima facie* evidence as to the adoption of such statutes as are set forth in it as being

applicable, and as such it has been regarded by the courts and the public.— The author of the work states that the Report had been grounded on a careful perusal and consideration of the statutes at large, and on an examination as far as it was practicable of the records of the former provincial court, and the Legislative and Executive proceedings of the government before the revolution. With respect, he says, to the criminal statutes (which before the passing of the Penitentiary Law of 1809, were considered of the most importance,) the records have afforded the most conclusive evidence as to the usage and practice under them; but in civil cases, it was different, and the record books, the nature of the subjects and the law authorities thereon, and the usage and practice of the Province, had to be referred to in proof of the extension of many of the statutes, (K. R. S.)

It seems, says the same work, that the question as to the application and extension of the English statutes, was taken up at the first session of assembly of which we have any record, and continued in various ways to be agitated to a period so late as the year 1771.—

The views of the proprietors and their adherents, tended to discourage the extension of those statutes, in order that their power of assenting to laws might become more important, while on the other hand the people of the province were unwilling that the statutes should be particularly declared as applicable, and were desirous of leaving it entirely to the courts to determine whether the adoption of the statutes would be in accordance with the good of the country and the wants of the people.

There are then three distinct modes by which the English statutes may have been in force in the Province, 1st. By the express declaration of the parliament; 2d. By declarations contained in the Provincial acts of assembly; 3d. By having been introduced and practiced under by the courts of law and equity; which is the most important in judging of those that are to be retained under the provisions in the declaration of rights. Many statutes relating to rights and rules of property have been tacitly acquiesced in, and many have been used and practiced under, without any express de-

cision of the courts. See K. R. S. Intro. It may also be remarked that the acts of the Legislature have in many cases, by operating on the same subject, superseded the English statutes, sometimes partially, sometimes wholly.

Having said thus much in relation to the statute law, which is sometimes called the "*lex scripta*," let us merely advert for a moment to what is usually known by the name of the common law, or "*lex non scripta*," because such law originates not from written enactments of the Parliament or Legislature but from the decision of the judges upon such questions as may have been presented to them in the numberless causes of litigation which arise in the diversified intercourse of human society, and which the statutes have not provided for, but left to the judgment and the exercise of sound discretion in the courts of law. It seems to be but reasonable that when the judges once decide a case that in subsequent cases which may arise of a similar character, they should preserve a uniformity of decision and an adherence to established principles. But as there may exist an endless

diversity in the circumstances and particulars of human transactions, so there is continual occasion for the exercise of the judgement of the courts, not only properly to adjudicate every case which may come before them according to its own intrinsic merits, but also to preserve an uniformity in their decisions and a consistency with principles, which may have been before laid down by them, as governing them in all their decisions. These decisions being collected together in print, form the books of *Reports*, which constitute 'the common law,' and which are considered as the perfection of human reason and the highest improvement of the human judgment. In cases of litigation coming before the courts, it is usual to appeal to these books to ascertain what have been decisions of the same court, or of other courts, in similar cases, or in analogous cases, which may have been presented to them, and thus to decide new cases in conformity with such prior decisions. It is the collection and arrangement of these decisions which constitute the great body of most of the law Libraries, and which far surpasses in magnitude and extent the

lex scripta or statute law, and it is this too which occupies principally the hours of devotion of the student, and constitute those *precedents* which command and govern the decision of the judges.

It is evident from observations already made, that the common law of England was not excluded from adoption by the Province of Maryland, and that it has always been considered one of the proudest inheritances of the country. Yet in Pennsylvania an act was at one time passed forbidding the quoting of any book of the English common law.

The decisions at the English common law, may then also be considered as of binding authority, as precedents, down to the time of the declaration of rights, subsequently to which time, the English precedents are quoted in the Maryland courts not as absolutely binding, but merely as of weight and authority and as commanding the respect and highest attention from our courts, (5 Har. & J. 358.)

NOTE—Books: There has never been in the courts of Maryland any legally appointed or established Reporter, but the reports of the arguments of the cases, and the judgments of the court have been made by private persons whose undertakings the State encourages by subscribing for a number of copies, so as to remunerate them for their expense and trouble. The first Reports in Maryland were of the cases in the General Court of the State, the old Court of Appeals &c. and extended from the year 1658 to the Revolution. They were then continued by Harris and Johnson, from 1800 to 1826, after which they were continued, by Harris and Gill, and subsequently by Gill and Johnson.

This collection of the adjudications of the Court of Appeals of Maryland, is a work calculated to do credit not only to the eminent counsel and judges, but to elevate the character of the State itself in the eyes of the world, for the profound learning, the deep research, the accurate discrimination, perspicuous statement of principles, and the correct deductions and inferences, which are

contained in them. The clearness and the distinctness with which the litigated points have been settled and established, will go far to settle on a firm basis, many of the vexed questions, which have been the source of contention and controversy. It is the foundation of a fabric worthy of an infant State, and which will continue to reflect credit upon her character.

In addition to this we may add the Chancery Reports by Chancellor Bland, containing cases adjudicated in the Chancery Court.

While we are upon the subject of the law books of Maryland, we would also take this occasion to mention some others of the law books which have been published from time to time in relation to Md. Laws, &c. as enabling some who have not the books before them, to form a more accurate judgment of them.

The statute laws of Maryland, were in the early years of the Province merely recorded in the public offices.

Subsequently to this, a book of the acts passed at each session was published at the close of each session, and in the year 1765 Thomas Bacon, the

Rector of All Saints Parish in Frederick county and Domestic Chaplain in Maryland to the Right Honorable Frederick Lord Baltimore, published the laws of Maryland at large, then for the first time collected in one complete body, and also prefixed to it a translation of the charter. This edition of the statutes, in folio, gives a preface, showing the imperfect compilations which had preceded it, and setting forth the occasions of the mutilation of the State records. The publication of this volume was much aided by the liberal subscriptions of many of the wealthy and patriotic citizens of the State, who gave from 50 to 100 £ towards bringing it out.

Harrison's laws carried Bacon on to 1785.

In the year 1797 there was an edition of laws published by Parks in Philadelphia.

Bacon's edition of the laws was followed, and indeed superseded, by two large quarto volumes of the Laws of Maryland, published by Mr. Kilty, in the year 1799, in pursuance of a resolution of the General Assembly of Maryland, of the previous year, direct-

ing him to include in his edition all the public acts then in force, from the year 1692. Of this edition, only 200 copies were directed to be printed, and such is now the slender supply upon which the State has to depend, for important information, as to the laws, down to the year 1799.

The next compilation of laws of the State, was also in conformity to a resolution of the Legislature of the State, passed in the year 1817, and in conformity to which Messrs. Harris, Watkins and Kilty, (the son of the former) compiled and published in 5 volumes, commencing where Kilty left off, and calling it the 3d vol. and which brought the laws up to the year 1818, with an index to that time; and the last volume containing a compilation of the chancery laws of the State. Since that time to the present the laws have been only published as annual acts of the General Assembly, in pamphlet form, although an Index has been published extending from the year 1818 to 1826, and another from that period to 1831, and another from that period to 1837.

Auxiliary as it may be considered, to these laws, there was published by

Virgil Maxcy Esq. an edition of the laws of Maryland, in 3 volumes, containing the public acts alone, from the year 1592 to 1811.

From the number of acts which have in the course of so many years been passed in the State; and the space to which they have extended; and the magnitude to which they have swelled, it may well be supposed that no little confusion prevails over them; and to remedy this, and to reduce and simplify them, the Legislature in the year—— directed the compilation of a classification of the statutes. This however was not effected.

In the year 1840, the Hon. Judge Clement Dorsey, published a compilation of the Laws of Maryland, in 3 vols., containing the General Laws of the State, now in force, and in the latter part of the work, all the local laws which were applicable to each county, under the head of the different counties. The work has annotations on the laws, shewing the effect &c. of subsequent laws, and also has a copious index, calculated to render it useful, so far as it goes, as a digest of the laws of the State. The publication of this

work was greatly facilitated by the patronage extended to it by the Legislature of 1838-39.

We would also cursorily mention as among the fundamental law books of Maryland, Harris, Entries, in 2 volumes, containing the most approved precedents in pleading &c. This work has passed to a second edition by Hugh D. Evans in the year 1839.

Among other laws and historical books published in reference to Maryland, we might recount Herty's Digest, Eli Lavette's Dep Com. Guide, Colvin's, Hall's, Cumming's, and Latrobe's Justices; M. Henry on Ejectment, Landholders' Assistant, Insolvent Laws Digest, McMahon's, Bozman's and Griffith's histories, &c.

There have also been published the following useful works which are too much referred to, to require any further notice than their mere mention:—Alexanders' Chancery, Evans' Practice, Raymond's Chancery Reports, Dorsey's Testamentary Law, Hinckly on attachments, and others.

CHAPTER II.

MARYLAND.

Right of Suffrage—Eligibility to Office—Declaration of Religious Belief—Oaths of Office—&c.

We propose now to make a few remarks on the Right of Suffrage and its variations in our State; what constitutes Eligibility to various of the offices; the Declaration of Religious Belief required; and the Oaths of Office which are to be taken, &c.

RIGHT OF SUFFRAGE;—SUMMARY OF THE CHANGES OF—In the early time of the colony the right of franchise was not much estimated, but by degrees came to be more thought of. In 1681 by the ordinance of the Proprietary it was restricted to freeholders or to persons having personal estate of 40 £

which restrictions were confirmed by the law in 1692, and continued by successive acts (1704 ch 35; 1708 ch 5; 1715 ch 42; 1716 ch 11) until the Revolution. The 2nd article of Dec. Rights fixed much the same qualifications. In 1798 ch 115, it was to be regulated by law. In 1801 ch 99 *white* persons alone could vote,—in 1809 ch 83 after a residence of 12 months in the State and 6 in the county.

THE RIGHT OF SUFFRAGE.

History—Pr'y Qualification—Under the Proprietary Government the 7th sec. of the charter provided that laws should be passed with the advice, assent and approbation of the freemen of the Province or of their delegates or deputies. Let us enquire who had the right in those days of voting for delegates.—The preamble of the act of 1716 ch 11 is in these words: "For as much as the choicest and only foundation and support of any kingdom, state or commonwealth, is the providing, establishing and enacting good and wholesome laws for the good rule and government thereof, and also upon any necessary and emergent occasion, to raise and borrow money for the charge of said

government and the defence thereof, neither of which according to the constitution of this province can be made, ordained, established or raised, but by and with the consent of the freemen of this province, by their several delegates and representatives, by those freely nominated, chosen and elected to serve for their several cities and counties in the general assembly; and for as much as the safest and best rule for this province to follow, in electing such delegates and representatives, is the precedents of the proceedings in parliaments in Great Britain, as near as the constitution of this province will admit the Governor in the upper and lower houses of this general assembly, do humbly pray that it may be enacted &c.”

The act then goes on to regulate the mode of election and authorises the sheriff to empower three justices, one of whom to be of the quorum, with the clerk of the county court, to hold an election, giving notice to all resident freemen having a freehold of forty acres in the county, and having a visible estate at 40 pounds sterling at the least, to elect &c.; and persons who did not vote were (sec 6) subject to a fine

of 100 lbs. of tobacco; and the expenses of the persons elected were to be defrayed out of the public levy of the province (sec 8).

Thus it continued down to the time of the Declaration of Rights and the Constitution. The Dec. of Rhts. (art 5) declared, that the right in the people to participate in the Legislature is the best security of liberty and the foundation of all free government; for this purpose elections ought to be free and frequent, and every man having property in, a common interest with, and an attachment to the community, ought to have a right of suffrage.

In pursuance with this article of the declaration of rights, the 2nd art. of the Constitution regulated the right of voting, prescribing that persons who had property to the value of £30 and had resided in the county one whole year next preceding the election, should have the right of suffrage; the same article also prescribed the times, places and manner of voting, which was *viva voce*, and not by ballot. In 1798 (ch 115 conf. 1799 ch 48) the constitution was amended, and every part of the second, third, fifth, fourteenth and for-

ty second sections which relate to the judges, place, time and manner of holding the several elections for delegates, electors of the Senate, and sheriff of the several counties was annulled and it was provided that the same hereafter be regulated by law. In 1801 (ch 90 conf 1802 ch 20) the right of voting was given to every free white male citizen and no other, above 21, who hath resided 12 months within the county, and he shall vote by *ballot*, for delegates to the general assembly, electors of the senate and sheriff.

This it will be perceived removed all property qualifications but did not provide for persons voting for United States officers; nor did it remove the necessity of a property qualification from office holders; consequently Nov. 1809 ch 83 (conf 1810 ch 33) was passed and gave to every free white male citizen above 21, and to no other, having resided 12 months in the State and 6 months in the county &c., next preceeding the election at which he offers to vote, the right of suffrage; and he shall vote, by ballot, in the election of such county or city, or either of them, for electors of the president and vice

president of the United States, for representatives of this state in the Congress of the U. S., for delegates to the General Assembly of the State, electors of the Senate and sheriffs; and this amendment to the constitution now regulates the right of suffrage.

And as regards property qualifications in office holders the act of 1809 ch 198 (conf 1810 ch 18) provided that all such parts of the constitution and form of government as require a property qualification in persons appointed to or holding offices of profit or trust in this state, and in persons elected members of the Legislature or electors of the Senate, shall be, and the same are hereby repealed and abolished.

From these sections it will be seen, that the voting viva voce; that the requisition of a property qualification in voters; and the same in office holders; have all been changed since the adoption of the Constitution and that the regulation of the judges, place, time and manner of regulating elections have been taken from the Constitution to be regulated by law.

According to the Declaration of Rights and the Constitution, it will be seen

that free blacks had the right of voting, &c., and this franchise they continued to exercise for some time. But the Act of November 1796, ch. 67, sec. 5, took away from any slave manumitted since the passing of the act of April, 1783. ch 23, which was an act, (subsequently repealed,) to prohibit the bringing of slaves into this State, and also from slaves who should hereafter be manumitted according to this act, the privilege of voting at elections, or of being elected or appointed to any of office profit or trust or to give evidence against any white person or for any slave petitioning for freedom.

And again, by the amendment of the Constitution, alluded to above, 1801, (ch 99, conf'd. 1802, ch 20) the right of voting was given to every free white male citizen, *and no other*. This, of course, removed from them all privilege of voting.

The Judges, time, place and manner of holding elections was therefore regulated hereafter by law, which time and space do not allow us, at present to examine.

WHAT CONSTITUTES ELIGIBILITY TO
CERTAIN OFFICES.

As to the Governor.—Formerly, under the old Constitution, no person, unless above twenty five years of age, and a resident of this State above five years next preceding the election, could be eligible as Governor (Constitution, art 30;) and no person having been Governor for three successive years was eligible to that office until the expiration of four years after he shall have been out of that office (Con. art 31;) nor was the Governor capable of holding any office of profit during the time for which he shall be elected (June 1809, ch 16, con Nov 1809. ch 11.) Under the amended Constitution the Governor must be thirty years of age and is not eligible at the succeeding term. He must also have been at least three whole years before a resident of his gubernatorial district (1836; ch 197 sec 20.)

Member of the Council or Senate.—Formerly no person could be eligible as a member of the Council (con. art 2) or of the Senate (art 15) who had not arrived at the age of twenty-five years, and resided in the State for three years

next preceding the election. But now the qualifications necessary in a Senator are the same as those required in a Delegate to the General Assembly, with the additional qualification, that he shall be above the age of twenty-five years and shall have resided at least three years next preceding his election, in the county or city in or for which he shall be chosen (1836, sec 5 ch 197).

Delegates.—No person shall be eligible as a Delegate to the General Assembly who has not arrived at the age of twenty one years, and resided in the county or city which he is to represent, for twelve months next preceding the election (con. art 2.)

The residence required for delegates from Baltimore and A. Arundel counties shall be exclusive of the city of Baltimore and Annapolis (1839, chap 198, conf 1810 ch 18.) But this was repealed by sec. 20 of 1836, ch 197.

Electors of the Senate.—Formerly the Electors of the Senate required the same qualification as the county delegates (con. art 14.) But now the Senate is elected directly by the people.

Not to receive the profits of two offices—or hold offices under the U States;

Residence—Formerly, no person holding a place of profit, or receiving any part of the profits thereof, or receiving the profits or any part of the profits arising on any agency, for the supply of clothing or provisions for the Army or Navy, or holding any office under the United States or any of them, or a minister or preacher of the Gospel, of any denomination—or, any person employed in the regular land service, or marine of this State, or the United States, would have a seat in the General Assembly, or the Council of this State. But the 7th section of 1839, ch 197, repealed so much of the 37th article of the Constitution as provides that no Senator or Delegate to the General Assembly, if he shall qualify as such, shall hold or execute any office of profit during the time for which he shall be elected. Though the 8th section still provides that no Senator or Delegate, during the time for which he was elected, be appointed to any civil office, which shall have been created or the emoluments of which shall have been increased during such time.

No member of Congress or person holding an office of trust or profit un-

der the United States, shall be capable of having a seat in the General Assembly, or being an elector of the Senate, or holding any office of trust or profit under this State; and if any member of the General Assembly, elector of the senate or person holding an office of trust or profit under this state shall take his seat in congress, or accept of an office of trust or profit under the United States, or being elected to Congress or appointed to any office of trust or profit under the United States, not make his resignation of his seat in Congress, or of his office as the case may be, within thirty'days after notice of his election or appointment to office as aforesaid, his seat in the Legislature of this State, or as an elector of the Senate, or of his office held under this State as aforesaid shall be void (1791 ch 80 conf 1792 ch 22).

All civil officers for the several counties of this State, shall have been residents of the county for which they shall be appointed, six months next before their appointment, and shall continue residents of the county while they remain in office. (Art 46).

No member of the General Assem-

bly or Council if he shall qualify, shall hold any office of profit during the time for which he shall be elected (this is repealed by 1836 ch 197 sec 7); and if any member of the General Assembly or Council, after qualifying, and during the time for which he shall act as such, or if any Governor, Chancellor, judge, register of wills, register of the land office, commissioner of the loan office, register of the Chancery Court, or any clerk of the common law courts; treasury, naval officer, surveyor or auditor of the public accounts, or sheriff, while acting in the office which he holds, shall receive directly or indirectly or at any time, the profits or any part of the profits of any office held by any other person, his election, appointment and commission, on conviction in a court of law, by the oath of two credible witnesses, shall be void, and he shall suffer the punishment for wilful and corrupt perjury or be banished from the state forever or disqualified forever from holding any office or place of trust or profit as the court may adjudge (cons. arts 37,39,53)—a justice of the peace may however be eligible as a Senator, delegate or member of

the council, and may continue to act as a justice of the Peace (con. art 44).

It is thought however that the penalties in these articles may be repealed partly by a repeal of the 38th Article of the constitution respecting oaths and by the act regulating oaths of office.

Formerly it required a property qualification in Maryland not only to enable a person to hold office but also to vote; it will be seen above that the necessity of a property qualification in the voter was repealed by the amendment of the constitution in 1801 (ch 90; conf. 1802 ch 20); and in the office holder by Nov. 1809 (ch 198; conf 1810 ch 18). Thus have the property qualifications gradually been laid aside and all the citizens of the State, whether rich or poor, put upon the same footing.

DECLARATION OF RELIGIOUS BELIEF

In regard to the toleration of all religious creeds under the Colonial Government we have spoken above.—

In alluding to the subject of religious toleration in Maryland, and the early spirit of liberality with which our laws were characterised, and particularly to the charter granted to Cecilius, the son and heir of George Calvert, on the 20th June 1632, a public speaker lately remarked as follows:—

“The mild, liberal, and moral spirit of the father was characteristically impressed upon the charter thus granted to the son; which strongly corroborates the opinion, that he himself was its author. Although, very naturally, imbued to a considerable extent, with the aristocratic and loyal spirit of an English subject, still, he made ample provision for the rights and liberties of the colonists. Although, too, he had felt the sting of religious intolerance, and had been numbered amongst the “PROSCRIBED,” on his conversion to the faith of the Catholic religion, still, he insured

to all christian men the most perfect exercise of the rights of conscience.— Nor was it a mere *parchment guarantee*. Never, from the first settlement of Maryland, down to the period when her Proprietary government was suspended, could she blush for the commission of one act of authorized intolerance against any denomination of christians. To be sure, christianity was made the law of the land; and was, in some measure, the boundary-line of political franchise. The unhappy child of the Synagogue was still doomed to bear the mark of an outcast, and was unjustly debarred the privileges of a freeman. Even so; Calvert, and his colonists after him, made giant strides in advance of the age. Maryland established the principle, and, above all, the *practice* of christian toleration, in the new hemisphere, and laid the ground-work for the complete superstructure, which was, afterwards, reared by the hands of Jefferson, and his illustrious co-laborers in the cause of truth. She was the first to give "religious liberty a home, its only home in the wide world:"* where "*the disfran-*

* Bancroft's Hist. U. S., vol I, p. 247.

chised friends of prelacy from Massachusetts, and the Puritans from Virginia were welcome to equal liberty of conscience and political rights.”† Such is a sample, only, of the honorable and impartial testimony of Bancroft; who is more than sustained by the eloquent historian of Maryland. I say it not in triumph. It is a recorded truth. Indeed the contrast is too mournful for triumph! It was, truly, most lamentable, to see men who had fled from the old world, to secure a peaceful enjoyment of civil and religious freedom, themselves, and their children after them, persecuting their fellow-men for a difference in creed! Maryland did not, and could not rejoice in the contrast.—She only endeavored to teach a better lesson, and to exemplify her teaching by her practice.”

It was indeed honorable to the first Proprietary of Maryland, that as by the charter he, “had taken from himself and his successors, all arbitrary power, by establishing the legislative franchise of the people; so he took from them the means of being intolerant in religion by securing to all present and future

† Ibid, p. 257.

‡ Ibid, p. 242.

liege people of the English king, without distinction of sect or party, free leave to transport themselves and their families to Maryland." (Banc. vol. I pp 243).

This toleration of all religious sects in Maryland, without persecution, is especially honorable to the founders of the state and cannot but be creditable to them, when in several of the other colonies great bigoury prevailed. This liberality of sentiment may be attributed to two causes; first, the enlightened views and the sagacity of the Proprietors; and secondly, to the peculiar circumstances, under which the colony was settled. It is well known to the reader of history that at the time that the charter of Maryland was granted the feelings of intolerance towards the Catholics in the mother country, ran high, and indeed the violent persecution of them in consequence of their religious opinions induced them to seek an asylum in a foreign land. It is not then to be supposed that, at the very sametime that they were asking and indeed enjoying for themselves toleration of their own religious opinions from the mother country, that they would attempt

to persecute those who differed from them in the colony, and who would have of course, resorted to the higher tribunal for an appeal, if their rights had been infringed upon. The proprietaries of Maryland therefore, rejoicing in the free and uninterrupted exercise of their own religious sentiments, felt no disposition to provoke attacks upon themselves, by crusading against the rights of others. They were themselves tolerated not only in the possession of their religious rights, but also in the enjoyment of important political powers granted to them by Protestant Sovereigns in a nation where a permanent religion was established by law.—Happy had it been for the reputation of our state, if this toleration not only religious, but also political, had been allowed to continue. But it was not. Even in the province of Maryland, first settled by Catholics, and established, as it were, as an asylum for them, from religious persecution in the old countries, in a short time the Protestants, doubtless looking for their aid and succor to their more lofty ally across the waters, became the more powerful, and obtained the ascendancy. So that,

in a short time, so far from visiting persecution on others, even, if he had been so disposed, the Proprietary was compelled to look to his own safety.— We quote from the nervous language of the same writer again, when he states the fact:—

“Such was Maryland, in the first epoch of her career. But, alas! the hour of her prevarication was approaching! Turbulent and unscrupulous men were meditating hideous ruin. Civil commotion lifted its viper-head from amidst the flowers of peace. The reptile of religious bigotry, fresh from the den of English persecution, envenomed the public mind. Demagogues, courtly sycophants, and saintly hypocrites all combined, in one unholy effort, to feed the cancerous disease, which corroded the loveliest feature of human liberty. Maryland forgot her ancient glory! What cared intriguing men for the memory of olden times? What cared they for the remembrance of Calvert’s liberality, and the practical tolerance of the Pilgrims? Not a jot. The honor and the happiness of Maryland were but as a grain of dust in the scale, when weighed with their selfish

purposes. I speak it plainly, fellow-citizens, for it is true; and it is time that the present generation should know it, and think well on it: for if there be one lesson more dear to Maryland than another, it is the one taught by the history of this period. And, I would rather never breathe again, than be guilty of the cowardly concealment of a single unpalatable truth. I repeat it, MARYLAND FORGOT HER ANCIENT GLORY! Hence the odious appeals to popular passion; hence the utter contempt for the religious rights of man; hence the Catholic was disfranchised in the very colony, which had been settled by the toil of his forefathers!—As there is a Heaven above me, I speak it not in bitterness, but in deep, deep sorrow. It is THE ONE blot upon the honor of Maryland,”

And again, he alludes to the superior power of the Protestants in the colony from which it will be seen that those of the Protestant denomination who were tolerated in the full and entire exercise of all their religious views in the Colony, were in fact the stronger party, and therefore that the establishers of the colony would but consult their

own interests and the peculiar circumstances in which they themselves were placed, by extending the rights to the free exercise of their religious opinions to all other sects of the Christian denomination.

"Fanatical men had poisoned the public mind; a groundless revolution had hurled the Proprietary from his ancient dominion; and, at the express solicitation of the rebellious "Associators," Maryland was placed in the humiliating attitude of a royal province. King William assumed the Executive power; and, on the 9th of April, 1692, Sir Lionel Copley, by royal appointment, dissolved the revolutionary convention, and undertook the government of the province. The first act of the new Assembly was "the act of recognition of William and Mary;" by the second, "the Church of England was formally established." "Thus, (continues McMahon,) was introduced, for the first time in Maryland, a church establishment sustained by law, and fed by general taxation." † The Catholic, the Puritan, the Quaker, and every other Non-conformist, was taxed to support a form of worship, which they repudiated. Un-

der the old system, every man had paid his own preacher. Upon the improved plan, the whole people now paid the ministers of the dominant party. It is hardly necessary for me, fellow-citizens, to comment upon such a state of things. The union of church and state is a curse to both. Fortunately, it is becoming an obsolete idea. It is loudly condemned by all liberal political economists of the age, as dangerous to the liberties of the people, and injurious to the true interests of religion itself. However such an union might have aided, in the earlier ages of christianity, to check the rude power of semi-barbarous kings, and to curb the tumultuous passions of the multitude—all agree that it is wholly inconsistent with the spirit and progress of modern civilization. The Church is for the *spiritual* guidance of men; the State for the *temporal* government. Both are distinct and independent in their respective spheres of action. Neither is as sound and effective, as when disconnected from the other: and neither can undertake to regulate the other, without endangering the harmony of both."

While then we must attribute some

of the religious freedom enjoyed in the colony of Maryland, as we have said above, to the peculiar circumstances in which the colony was placed, let us not deny to the Proprietary, the absence so far as we can judge, of any disposition to infringe upon the rights of others, and acquit him of giving any grounds for the loud out cry which seems sometimes to have been raised in the Province of "No Popery." Let us not deny that under the Catholic government in Maryland, no encroachments were made upon Protestant rights, while on the contrary, under the Protestant government, various acts were passed "to prevent the growth of Popery." Let us not then deny to them the credit for so much toleration of other religions as under the circumstances they are justly entitled to.

To others, such as the worshipper at the Synagogue, and to those who professed no christian religion, the same toleration was not extended till many years after the Revolution, if indeed it may be said even yet to be fully guaranteed to them.

Let us refer for a moment to the changes under the laws and Constitution of

our state.

The Declaration of Rights (art 83) in fact abolished the support of the church of England by law in Maryland and gave to all persons professing the christian religion equal protection in religious liberty;—the article runs in these words:

“33. That it is the duty of every man to worship God in such manner as he thinks most acceptable to him; all persons *professing the Christian Religion* are equally entitled to protection in their religious liberty, wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under color of religion, any man shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights: nor ought any person to be compelled to frequent or maintain, or contribute unless on contract, to maintain any *particular* place of worship, or any *particular* ministry, yet the legislature may, in their discretion, lay a general and equal tax for the support of the christ-

ian religion; leaving to each individual the power of appointing the payment over of the money collected from him, to the support of any particular place of worship or minister, or for the benefit of the poor of his own denomination, or the poor in general of any particular county, but the churches, chapels, glebes and all other property, now belonging to the church of England, ought to remain to the church of England forever. And all acts of assembly lately passed, for collecting monies for building or repairing particular churches or chapels of ease, shall continue in force, and be executed, unless the legislature shall, by act, supersede or repeal the same: but no county court shall assess any quantity of tobacco, or sum of money, hereafter, on the application of any vestrymen or church wardens; and every incumbent of the church of England, who hath remained in his parish, and performed his duty, shall be entitled to receive the provisions and support established by the act entitled "an act for the support of the clergy of the church of England in this province," till the November court of this present year, to be held for the county in which

his parish shall lie, or for such time as he hath remained in his parish, and performed his duty."

The part of the above article in *Italics* has been repealed and the power of the Legislature of levying a tax for the support of the Christian religion or any other tax for the support of religion was taken away by 1809 ch 167, conf 1810 ch 24. The 35th art. of the Declaration of Rights as we shall presently show required a Declaration of belief in the Christian religion. In conformity with the Declaration of Rights the 55 Art. of the Constitution also required of every person appointed to any office of profit or trust to subscribe a declaration of his belief in the christian religion.

As this act however excluded Jews from office and was regarded by many as a want of that religious toleration which the enlightened age and the progress of a liberal spirit demanded, it was a continual subject of invective and debate until finally an act amending the constitution was passed in 1834 (ch 205; conf 1835 ch 33). It enacted that every citizen of the State, professing the Jewish religion, who should

thereafter be appointed to any office of public trust under the State of Maryland, in addition to the oaths or affirmations required to be taken by the constitution and laws of this State or of the United States should make and subscribe a declaration of his belief in a future state of rewards and punishments, instead of a declaration of a belief in the Christian religion. (1824 ch 205; conf 1825 ch 33.)

The constitution repugnant to the above act however was only repealed so far as respects the Jews and not as to others (ib sec 2). Thus it will be perceived, that Mahometans, Infidels and the like are still excluded from office in our State, and all who do not believe in a State of future rewards and punishments.

(This it has been thought by some would also exclude some universalists.)

AS TO THE OATHS OF OFFICE TO BE TAKEN BY OFFICERS.

In the previous article, it is shown, that it is necessary for any person except a Jew, appointed to any office of profit or trust to subscribe a declaration of his belief in the Christian religion.—

But there has been much legislation on the subject and repealing and altering of old acts.

The 36th Art. of the Dec. Rights says:—The manner of administering an oath to any person, ought to be such as those of the religious persuasion, or denomination, of which such person is one esteem the most effectual confirmation by the attestation of the Divine Being. And also that the affirmation of quakers &c. ought to be received as an oath.

And the 35th Art of the Declaration of Rights says: that "no other test or qualification ought to be required, on admission to any office of trust or profit, than such oath of support and fidelity to this State, and such oath of office as shall be directed by this convention or the Legislature of this State and a *declaration of belief in the christian religion.*" The latter clause as we have just shown has now been altered.

And the Constitution (43rd Art) prescribed that every person who shall offer to vote for delegates, or for electors of the Senate, or for Sheriff, shall, (if required by any of the persons qualified to vote) before he be admitted to poll

take such oath or affirmation of support and fidelity to this State as this convention or the Legislature shall direct.

At the time of the adoption of the Constitution, it was deemed important to guard the fidelity and the allegiance of the office holders and others by frequent and multiplied oaths, that their obligations to the State might be too strong to admit of any breach of allegiance; hence we find that in the Constitution were found the oaths to be taken by the electors of the Senate (Art 10), by the clerk of the council (art 26), by the senators and delegates at their annual meeting (art 28), and again before an election of Governor and members of council (ib), and also by several of the higher officers, that they would not receive the profits of any other office, or for the supply of clothing or provisions for the army (art 38) or that they would not vote for any ro office through favor &c. but that they would vote for the person most fit and best qualified for the office (art 50), that they would not receive any fee or reward for doing their office but what the laws allowed, or receive the profits of any other office (art 52); and that

they did not hold themselves bound in allegiance to the King of Great Britain, but would be faithful and bear true allegiance to the State of Maryland (art 55).

But after the revolution had passed and distrust had ceased to exist, it was found that the frequent recurrence of the use of the oath detracted from its solemnity, and caused it to degenerate into a mere matter of form, without possessing that obligation on the conscience, which it should possess, and hence *the whole of the above oaths have been abolished*, and the following amendments of the constitution have taken their place.

The amendment of 1797 (ch 18 conf 1798 ch 83) gives to certain religious sects, to Quakers, Nicolites, Tunkers, Memnonists, the right to affirm instead of taking an oath; but the court must be satisfied that they are conscientiously scrupulous of taking an oath; and afterwards by 1817 (ch 61 conf' 18 ch 163) all persons professing the Christian religion who hold it unlawful to take an oath on any occasion, shall be allowed to make a solemn affirmation in the same manner that Quakers have hereto

fore been allowed to affirm, which affirmation shall be of the same avail as an oath to all intents and purposes whatever; and (sec 2) before any such person shall be admitted as a witness or juror in any court of justice in this State, the court shall be satisfied by competent testimony, that such person is conscientiously scrupulous of taking an oath.

And again, by the act of 1822 (chap 204, conf 1823, ch 116, sec 2) all the parts of the Constitution and form of Government relating to oaths to be taken by officers of government, were repealed and by the first section it was prescribed that every member of the Senate and of the House of Delegates, before he acted as such, should take the following oath:—"I, A B, do swear or affirm, (as the case may be) that I will be faithful and bear true allegiance to the State of Maryland and that I will support the constitution and laws thereof; that I will not, directly or indirectly, receive the profits or any part of the profits of any other office, during the time of my acting as Senator, (or member of the House of Delegates,) and that I will faithfully discharge my duty

as Senator (or member of the House of Delegates) without prejudice or partiality, to the best of my skill and judgment." (1822, ch 204, conf 1823, ch 116,) and Electors of the Senate and all Executive and Judicial officers, before they act as such, and all Jurors, elected or appointed to any office of profit or trust, civil or military, before entering upon the duties thereof, shall respectively take and subscribe the following oath or affirmation, to wit—"I, A B, do swear or affirm (as the case may be,) that I will be faithful and bear true allegiance to the State of Maryland, and that I will support the Constitution and laws thereof, and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ———, according to the Constitution or laws of this State."

Thus will it be seen that the old restrictions of the Constitution have been gradually relaxing, and the qualifications for office and the declarations of religious belief have become much more enlarged than they formerly were.



MISCELLANEOUS ITEMS.

Having occupied as much space in the foregoing detail as our limits would allow, we propose here to merely glance at the following topics, as being of more particular interest:—

1. The Revolution of 1836.
2. The Reform Bill of 1636-7.
3. The First Election under it; and the arrangement of the Executive and Senatorial Districts.
4. The cost of the Md. Judiciary
5. The History of the Internal Improvement System of Md.
6. Education.
7. The Census.

MISCELLANEOUS

CHAPTER I.

THE REVOLUTION OF 1836— THE EIGHT MILLION BILL &c.

The year 1836 was eventful in Maryland. The Session of the General Assembly which commenced on the 28th December, 1835, remained actively engaged in legislative duties, until the 4th of April, and then adjourned for some weeks, principally for the purpose of ascertaining the disposition of their constituents in regard to the propriety of passing or rejecting a bill in relation to Internal Improvements and ways and means for executing them, which had been framed after much deliberation and excited the deepest interest in its progress, and was discussed with much animation, a majority of the members being reluctant to assume for the State so vast a responsibility as it proposed, without more than common precaution.

On the 22d May the body re-assembled, and during a session of a fortnight, finally matured and passed the bill alluded to. It proposed that three Commissioners to be appointed by the Executive, should proceed to borrow, either in Europe or this country, upon the best terms they could obtain, on the faith of the State, bonds or certificates of Stock, bearing an interest of six per cent, not redeemable in less than forty years, the sum of *eight millions of dollars*.

The commissioners were limited however not to negotiate, unless a premium could be obtained on said loan, which should net at least 20 per cent to the treasury. This premium was partly appropriated to the payment of the interest which should accrue on the loan for the first three years, and the residue together with the bonus receivable upon sundry new bank charters, and the total receipts from the various works of Internal Improvement effected by this bill, were appropriated as a SINKING FUND adequate to the discharge of the principal debt, before the expiration of the period for which it was to be obtained, and leaving the State thereafter

in possession of a large and lucrative stock.

The deep anxiety of the friends of Internal Improvements for the accomplishment of the vast undertakings which were to bring the emporium of Maryland into a fair competition with the cities of the Union, for trade and commerce, and especially for the fate of those stupendous undertakings which had already made considerable progress at the expense of the State and its Citizens, but were as yet unproductive because so far from being completed, was now apparently in a fair way to be gratified, and the certainty of the completion of those works hailed as the commencement of a new era of prosperity; when the whole scheme was unexpectedly arrested by a political incident which diverted for a time the attention of every member of community from all thoughts of *improvement* to the more immediate necessity of preserving the very existence of the Government itself.

The Administration of President Jackson, being about to close, the State of Maryland, as well as the rest of the Union, was much divided as to the

choice of a successor. The friends of the existing Administration supported the election of Martin Van Buren—the opposition advocated General William H. Harrison—each party was sanguine of success in Maryland, and upon the vote of Maryland, many supposed the election to depend, or at least, that an election by the primary electors might be won or lost.

To the excitement incident to the election of a President of the Union, was added on this occasion the deep interest which the people of Maryland always take in the election of a new State Senate, which, continuing as it did for five years, gave a decided inclination in the State Government, in favor of the party which succeeded in that election.

During the electioneering, the Administration party in this State, availed themselves with great effect, of the objections which a large body of the people in many of the counties, and more or less in all of them, felt to the State embarking in such extensive projects, and becoming so deeply involved, as had been adventured by the Whig Legislature of the preceeding sessions.

For, although the opposite party had in full proportion participated in the measure, yet according to the well known practice of parties, the majority are always made accountable for all faults. The disaffection on the subject alluded to, went to such extent, that in St. Mary's and Charles counties, the election of Electors of State Senate was contested hardly at all upon the ground of politics, but between a Whig ticket of friends to Internal Improvement, and a ticket combining those of both parties opposed to the Internal Improvement bill—and that subject, was the theme in the canvass.

Besides the Internal Improvement bill, the same party availed themselves of the unpopularity of the bill which had also passed the previous legislature by the joint efforts of both political parties, for indemnifying the sufferers by the mob which occurred in the city of Baltimore in August 1835, to which object the avails of the Auction Duties were applied until the amount should be discharged. This bill gave great offence in some sections of the State, and operated powerfully as an election-eering theme amongst certain classes in

Baltimore city and county.

The party which had associated in other directions, particularly in Frederick, Washington, Harford and Cecil counties, in favor of a *Reform* in the Constitution of the State, formed originally of members of both political parties, had now become of such considerable force as to be very much of an object for party politicians to avail themselves of in some way. It became obvious that, for the sake of success, they would be as likely to take sides and identify themselves with a party, as that a party finding itself alone unequal to its rival, would attempt a union with such powerful allies for the sake of insuring success. Some leaders of the Administration party were now extremely anxious to form this association in those counties in which Reform was most popular—in other sections the topic was kept out of view as much as possible.

These several considerations had great influence in the election of Electors of the State Senate, and contributed to reduce the large majority which the Whigs had at the previous election, to a mere majority. Twenty-one Whigs

and nineteen Administration men, were elected.

On the day appointed for the meeting of the College of Electors at Annapolis, the whole of the Whig members attended and qualified—but as the Constitution required that not less than twenty-four members should constitute a quorum for the election of a Senate, the minority, instead of attending the College, met at the City Hotel in secret conclave with some prominent men of the Administration party, and came to a determination not to attend, unless the twenty-one Electors would consent that they, the nineteen, should be allowed to name a majority of the Senate about to be elected.

The qualified Electors declined to receive any communication touching their duty, or the manner of its performance, from a body so unknown to the Constitution—and remained ignorant of the exact tenor of the proposition itself, until it appeared in the form of a manifesto in the Baltimore papers.

After remaining three days at Annapolis, the nineteen Electors separated, announcing in their manifesto, that they thereby resigned into the hands of

the people, the authority with which they had clothed them—and that as they considered that this course would terminate the existence of the Senate, and consequently, of the Constitution and the authority of all the officers of annual appointment, they suggest that a Convention, to consist of six persons from each county and city, should meet at the City of Annapolis on the 3d Monday of November, *to continue all such appointments until a new Constitution should be formed by a Convention to be called for that purpose.*

— The predicament in which the people of the State so unexpectedly found their government, all the danger of impending anarchy and civil strife to which an attempt to carry out the proposed project would inevitably have led, was well calculated to arouse the community and although perhaps nine-tenths of the administration party, if their opinion had been consulted, previous to adopting such a step would have disapproved of it, yet such is the influence of party association, that as the step was taken, and taken as a party measure, the great majority of the party determined to sustain it.

Time was hardly allowed for the news of this movement to reach the remote counties, before the election for members of the popular branch of the legislature came on, and afforded the people an opportunity of evincing their disapprobation. Only twenty, of the eighty delegates, were returned of that party, and all the electors of that party, who were candidates, were defeated.

Only one of the recusant electors, JOHN S. SELLMAN, Esq., of Anne Arundel County, recognised this public expression so far as to meet the College. His colleagues, Wesley Linthicum, and Dr. Duvall, of Montgomery county published their determination to adhere to the course they had taken.

A second opportunity for an expression of public sentiment was afforded by the election of Electors of President and Vice President, which took place five weeks after the election of Delegates, and resulted in a signal defeat of the Administration party. The aggregate Whig majority in the State was 3,513.

Notwithstanding the openly avowed design of destroying the existing Constitution, and the attempt in several

and success in some of the counties, to elect members to the suggested Convention, which was to assume authority over the Constitution as well as public officers, the Executive had refrained from issuing a Proclamation in this juncture of affairs, because the elections were so near at hand, that such a measure would have been denounced as an interference to affect the result. On the 8th day of November, the day succeeding the election, however, the Proclamation was issued, and the Legislature was directed to meet on the 21st of the same month, to provide for the exigency.

On the 15th however, WESLEY LINTHICUM, one of the recusant Electors for Anne Arundel co. published a notification of his intention to meet the College of Electors and qualify on the 19th. and inviting the other seceders to meet him at that time, and assist in electing a Senate.

On the 19th, Messrs. J. B. Thomas and George, the recusant Electors for Queen Ann's, and Mr. Fountain for Caroline, also entered the College, qualified, and the College immediately proceeded to elect a Senate.

The appointment of Commissionera

to negotiate the Internal Improvement loan, had meantime been postponed by the Executive, in consequence of those proceedings which not only threatened the peace and tranquillity, but the very existence of the State and consequently materially affected its credit.

The sensation which the proceedings of the minority Electors created, extended over the whole Union, from the certainty which was obvious to all, that if constitutional minorities cannot be held to their obligations by the force of public virtue, there must be an end at once to our Republican System. The successful example of a conspiracy of the character of the one attempted on this occasion would be resorted to by every disappointed faction, and endless turmoil would succeed, for the Constitution of the Union, and of every State in the Union would always be liable to such assaults. Happy for the Republic as well as for Maryland, was the promptitude with which the People themselves rallied on this occasion, and so signally rebuked the attempt.

CHAPTER II.

REFORM OF THE CONSTITUTION OF MARYLAND.

Public opinion could hardly have been more emphatically expressed in relation to the revolution attempted in September, 1836, by the nineteen recusant Electors of the State Senate, than it was at the election which took place in October for Delegates to the General Assembly. Of the eighty members of which that house was composed, only twenty attached to the Van Buren party which had countenanced the measure, succeeded to seats, most of *them* by very small majorities, and some of them only by publicly disavowing the conduct of the recusants.

The Legislature therefore consisted of a Whig Senate, (unanimous,) and of a House of Delegates consisting of sixty Whigs and twenty Van Burenists.

The engrossing topic of the session was the contemplated REFORM in the STATE CONSTITUTION.

The Van Buren members were much divided upon this question amongst themselves. In relation to their course as a party, some opposed any other project than that of assembling a *Convention* to form an entire *new* Constitution; others strenuously objected to that process and insisted upon Reform by the constitutional process. Again upon the extent of the proposed change they were widely at variance with others.— A number of private meetings were held with the view of adopting some expedient which would enable them to act together as a party, which resulted finally in their agreeing to *disagree* upon the subject.

Upon the General Assembly, constitutionally organized and empowered as a CONVENTION UPON THE CONSTITUTION, as is wisely provided by that instrument, now devolved the duty of deliberating upon the provisions of the Constitution, and of proposing such Reforms therein as would render it more acceptable to the people and better adapted to the altered condition of the State. They approached the subject with all that circumspection which should be observed when the

organic laws are about to be changed—and after several weeks temperate discussion, during which a full share of talent was exhibited in debate upon the several propositions submitted, two bills passed both branches with an unanimity which perhaps has seldom been witnessed upon any so important and difficult a subject in the deliberate assemblies of this or any other Republic.

The bills passed the Senate without one dissenting voice. In the House of Delegates the votes were FIFTY-NINE for, and FOURTEEN against the bills.—Of the latter number seven were Whigs, viz: 1 from St. Mary's 2 from Charles, 3 from Calvert, and 1 from Worcester—the remaining seven were Van Buren men, viz: 1 from Charles, 1 from Calvert, 3 from Cecil and 2 from Allegany the members of which party divided 13 for, and 7 against the bill. The Whig members stood 52 for, and 7 against the bill.

REFORM PROPOSED.

The bills thus passed proposed entirely to remodel the Executive and Legislative departments.

EXECUTIVE DEPARTMENT.

The Governor, instead of being elec-

ted annually by joint ballot of both houses of the General Assembly, by this act was to be elected for three years by a general vote of the people, and is ineligible for the next term.

The State was divided into three Gubernatorial districts, of which the Eastern Shore counties constitute one; St. Marys, Charles, Calvert, Prince George's, Montgomery and Anne Arundel counties and the cities of Baltimore and Annapolis, constitute another; and the remaining counties of the State the other district; and from these districts, alternately, the Governor was to be chosen, adding to the qualifications heretofore required, that he shall have resided at least three years in the district, from which he may be elected.

The Executive Council was abolished, and all the Executive powers in future were to be exercised by the Governor, and in cases of important appointments by and with the advice and consent of the Senate—to whom however he was forbidden to re-nominate the same person when once rejected by them, except at their request.

The office of Clerk to the Council was abolished, and a Secretary of State

substituted, to be annually appointed by the Governor, subject to the approval of the Senate.

In case of a vacancy in the office of Governor, the General Assembly were by joint ballot to proceed to fill the same for the residue of the term from the same gubernatorial district. Meantime, until it is so filled, the Secretary of State shall act as Governor, or in case of vacancy in that office, the President of the Senate, and should that be also vacant, the Speaker of the House of Delegates officiates as Governor.

The first election of Governor under this act was held on the 1st Wednesday in October 1838; lots were drawn to determine from which gubernatorial district the first and the second choice was to be made.

The term of his office commenced on the 1st Monday in January 1839, and continued for three years and until a successor was chosen and qualified.

LEGISLATIVE-DEPARTMENT.

SENATE.—The terms of the old Senate expired so soon as a new Senate was elected and qualified under this Reform act, according to the Constitution and Laws of the State.

It was to be composed of twenty-one members—one to be elected by ballot of the voters in the city of Baltimore, and one in like manner in each county of the State.

The term of one-third of those first elected, expired in two years; one other third in four years, and the remaining third in six years; they were to be classified to that effect immediately on first assembling, and in such manner as the Senators should prescribe. Thus, one third of the body are to be elected every two years; and after the first terms expire, are to serve for six years, and are ineligible to re-election.

Vacancies are to be filled by a new election in the county or city, for the residue of the term.

HOUSE OF DELEGATES—Until the new census of 1840 was officially promulgated, the House of Delegates consisted of a specified number.

After the official promulgation of the census of 1840, and after every second census thereafter, the ratio of representatives in the House of Delegates, was fixed according to the following basis.

Every county having less than 15,000 souls, federal numbers, 3 delegates.

Over 15,000, and less than 25,000, 4 delegates

Over 25,000, and less than 35,000, 5 delegates:

Over 35,000, 6 delegates."

The city of Baltimore to have as many delegates as the county having the largest delegation.

The city of Annapolis shall cease to send a distinct delegation, and be hereafter incorporated as a part of Anne Arundel county.

ELECTIONS.—The first election of Governor, Senators and Delegates, under this act, took place on the first Wednesday in October, 1838; and all the elections thereafter were to be held on the first *Wednesday*, instead of the first *Monday* in October.

MASTER AND SLAVE —The relation of master and slave in this state, shall not be abolished, unless a bill to abolish the same, shall be passed by a unanimous vote of the members of each branch of the General Assembly, be published at least three months before the next election of delegates to the General Assembly, and be confirmed by a like unanimous vote at the next regular session—nor then without fu^l

compensation to the master.

SEAT OF GOVERNMENT, &c.—Annapolis is secured as the Seat of Government, and the place for holding the sessions of the Court of Appeals of the Western Shore, and of the Court of Chancery.

Clerks of the County Courts, and Registers of Wills, and Register in Chancery.—By a bill, distinct from the foregoing, the Constitution was altered as to the mode of choosing and as to the term of office of those officers.

They were to be appointed by the Governor, by and with the advice and consent of the Senate, for the term of seven years.

Persons holding these offices at the time of this act were however, excepted from its operation till 1845.

CHAPTER III.

FIRST ELECTION OF GOVERNOR—AND ARRANGEMENT OF DISTRICTS.

The first election, under the Reform Bill, when the Governor was elected by the people, took place on the 1st Wednesday in October 1838. William Grayson, Esq., of the Eastern Shore, was elected and qualified on the 1st Monday in January 1839 to serve for three years. His salary by the bill was fixed at \$4,200 per annum, and he was required to reside at the seat of government, where a furnished dwelling is provided by the State.

The first election in the Western District, by the people, resulted in the choice of Francis Thomas, Esq.; and the first election in the third district in the choice of Thomas G. Pratt, Esq.

GUBERNATORIAL DISTRICTS.

According to the provisions of the amendment of 1836, confirmed 1837, to the Constitution of Maryland, the State has been divided into three *Gubernatorial*

ial Districts, from each of which the Governor is to be chosen alternately.

The First or "Eastern District," is composed of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset and Worcester counties,—or what is denominated the *Eastern Shore* of Maryland. From this district the Governor was elected, on the first Wednesday in October, 1838, and is in future to be elected every *nine* years thereafter.

The Second or "Western District," is composed of Baltimore, Harford, Carroll, Frederick, Washington and Allegany counties. A Governor was to be elected from this district, on the 1st Wednesday in October, 1841, and on the same day every *ninth* year thereafter.

The Third or "Southern District," is composed of, St. Mary's, Charles, Calvert, Prince George's, Anne Arundel and Montgomery counties and the cities of Baltimore and Annapolis. A Governor was to be elected from this district, on the 1st Wednesday in October, 1844, and every *ninth* year thereafter. The Governor is elected in each case to serve for three years,

and is not eligible for re-election. In case of vacancy occurring in the office, the successor serves only for the residue of the term.

SENATORIAL ARRANGEMENT.

The first Senate of Maryland, under the amended Constitution, qualified on the first Monday in December, 1838.

According to the amendments as carried out by the Senate, January 1839, immediately after their formation, the Senators of the State were *classified* so as that the term of one-third of the members shall expire every second year.

The *first* Senatorial election, under this arrangement, took place on the first Wednesday in October 1840, and is to take place on the same day of every sixth year thereafter, at which time a Senator is to be elected for each, the

City of Baltimore, Baltimore County, Allegany County, Washington County, Cecil County, Queen Anne's County, Worcester County.

The *second* Senatorial election takes place on the first Wednesday in October, 1842, and in the same counties every sixth year thereafter, at which

time a Senator is to be elected for each of the following counties:

Charles County, Calvert County
Caroline County, Anne Arundel County,
Prince George's County, Montgomery County, Somerset County.

The *third* Senatorial election takes place on the first Wednesday in October, 1844, and in the same counties on every sixth year thereafter, at which time a Senator is to be elected, for each of the following counties:

St. Mary's County, Kent County
Talbot County, Dorchester County,
Frederick County, Harford County
Carroll County.

CHAPTER III.

THE INTERNAL IMPROVEMENT SYSTEM.

The peculiarly favorable position of Maryland, as a central state of the Union, and as presenting the most favorable route for rapid and easy communication with the valley of the West was not unobserved by her citizens, or allowed to remain long unimproved by them. They marked the superiority of her water courses as a thoroughfare for trade, and the fact that the waters of the west and those of the Atlantic approach nearer to each other by the Potomac valley than by any other route, which will always render that the most eligible direction for trade.

The precise data which amply sustain the superiority of this route were collected and published before the people of Maryland undertook to make that connection by the artificial highways which she is now constructing.—

These data have never yet been controverted—and they cannot be.

It was to General GEORGE WASHINGTON himself, as the pioneering engineer of such a project, that the state of Maryland is indebted for the suggestion. He was one of the first of surveyors, as well as of warriors and of statesmen. Gen. George Washington presided in the first internal improvement convention that ever assembled in the United States. This convention met at the city of Annapolis, perhaps in the year 1783, at any rate immediately after the revolution, for the purpose of promoting the project of improving these peculiar advantages of position.—Many of the most eminent men of that day were in that convention. Inspired by the views there presented, the state of Maryland was induced to embark in the undertaking, and at that early period, exhausted as the country then was by the recent struggle for independence Maryland led the way towards “internal improvements,” fully persuaded of the capacities that nature had stamped upon her position for becoming the favorite depot of the vast trade which would one day find its way across the Alle-

gany ridge and connect the millions of people that would inhabit each side of the mountains. Large expenditures were authorised by the legislature to improve those facilities.

The old Maryland canal was probably the first canal constructed in this country. But it was with a view to the improvement of the navigation of the Potomac river that the principal expenditure was then authorised by the state. So little, however, did the people of this country then know of the science of internal improvements, that it is not to be wondered at that the details of those new enterprizes should be ill-directed and unfortunate. The attempt to make the bed of the Potomac river navigable, drained the treasury of the state of Maryland of the then very formidable sum of \$140,000, without realising any benefit whatever.

Nor was the next project in which some of her citizens were induced to embark, with others of the adjoining state of Delaware, a whit more fortunate. The inhabitants of that part of the two states which lies between Elk River, leading into the head of the Chesapeake, and the Delaware bay,

caught at the idea of connecting the two bays by a canal. How little was then known in this country on the subject of canalling, was sufficiently illustrated by the fact that after holding a few public meetings upon the subject, it was finally resolved to commence the work upon their own hook, under the firm persuasion that it was little more of a task than to dig a common mill race—and to work they went accordingly with all due enthusiasm.

They soon got tired of digging however—and came to the conclusion that it would be better to form an association and employ workmen. Very considerable funds were raised, and an engineer appointed, who happened to know, that before a canal could be effective, a feeder must be found to supply water upon its summit level, and to work he went with a formidable force to conduct a neighboring stream of water to the point of elevation. To excavate this sub-canal, exhausted the whole of the funds of the company, and when the water was at last let into it, they found to their utter dismay, that the natural absorption of the earth in its length exhausted every drop of the

water the stream afforded and there was none left for the main canal.

To the stock of the Chesapeake and Delaware Canal company, which succeeded that project the state subsequently subscribed \$50,000. The investment proved totally unproductive. The principal part of the stock of this company was furnished by citizens of Philadelphia, and the expenditure was immensely beyond their highest estimates of its cost, say upwards of two millions of dollars.

These discouraging results for a long time paralysed the spirit of internal improvements in Maryland. It was many years before it could again be roused into action, and when awakened, the geographical localities of the state were found to have organized parties which for a long time presented insurmountable barriers to any progress whatever. The Susquehanna interest, and the Potomac interest, were at direct variance. Neither of them were strong enough to carry any measure in the legislature whilst the eastern shore counties remained hostile to opening avenues by either, that might bring competitors to a market of which they

now enjoyed a kind of monopoly from their superior facilities of access. From this cause Maryland remained inactive for nearly half a century after the failure of her first enterprise.

It was not until aroused by the bold and successful strides of New York in opening an avenue to the great western lakes—and witnessing the gigantic enterprise commenced by Pennsylvania with a view to secure the western trade—and the movements of Virginia towards connecting the James River with the Kanahawa, that at length were the eyes of the whole people of Maryland opened to the fact, that if her own superior natural advantages were much longer neglected, her more enterprising neighbors would soon leave her no chance for trade with the interior, except through the channels of which they held the keys. Would the people of Maryland fold their arms in listless idleness and see their neighbors running away with profitable trade that was seeking her avenues, was now the question.

To these considerations were super-added an estimate of the vast resources which the coal and iron mines of the

Alleghany region had now begun to develope. Whether they were to remain totally inoperative for lack of sufficient enterprise to connect them with the seat of trade, or by an effort on the part of the state, be opened to profitable use, was now also an enquiry.

It had been one of the characteristics of Marylanders to be distinguished for enterprise. The predicament into which she had recently fallen was not that of apathy, but of unfortunate jealousies. By the paralyzing influence of this spirit the opportunity of improving the avenues of either the Potomac or the Susquehanna in pursuit of the trade of the west, had been prevented—a too contracted view of the true interest of the state was taken by some of her influential men. She lost much by not pushing the improvements of her natural position, as was first determined upon—and fell behind one of the states at least, instead of leading in the career of internal improvements.

Awake at length to a sense of what was really at stake, the different parties coalesced, and now, all was enthusiasm for a participation in the trade which constituted so essential a part of our

prosperity. Enterprise and improvements became the order of the day.—New York was making her fortune before our eyes, by her canals—and was pushing her trade to the very Ohio, which was so much nearer to us. The Maryland avenues were again brought into view. And the cities of the District—the state of Virginia and Ohio—and at length the general government itself, was enlisted in the project for improvement.

The spirit of that day was admirable. The enterprise was commenced under fair prospects—and for a time the career was onward.

But difficulties were in the path.—The state had become fairly embarked and made a heavy investment in this main undertaking of connecting the Chesapeake with the Ohio by a canal, when an entirely new project was started, of connecting the city of Baltimore with the same points on the Ohio by a rail road. This suggestion at once captivated the Baltimore community. The state seconded their views—and a rival work was forthwith started, and soon come into collision with the prior association, for the right of way. Un-

pleasant feelings, bickerings, disputes, law suits, injunctions, following each other in succession, and at length both works were locked up in chancery.

The expenses, vexations and delays incident to such controversies at length brought the belligerent parties to perceive their folly. A compromise was effected, and after losing much of their money, their credit, and of the public confidence, they agreed to jog on together, and construct two great thoroughfares, instead of one, through the same avenue.

This, for Maryland, was truly a stupendous undertaking—and the more so, seeing, that the general government having passed under different control, now deserted the enterprize. The District cities had become overwhelmed with their participation in it and could aid no more—and Virginia had circumscribed her resources in order to complete her own projects. Maryland was left alone, to get on with her works as she could.

And now again came up interests in behalf of other projects. A rail road to connect the city of Baltimore with the Susquehanna, and a canal to connect

the Pennsylvania canal with the tide water of the Chesapeake;—a rail road to extend the length of the Eastern Shore counties—and another upon the Atlantic border, in Worcester county, were all urged upon the legislature—and it was found after repeated experiments, absolutely in vain to attempt to get appropriations for any one of these projects, including those of the Potomac, unless all the others, except that of Worcester, were accommodated also. It became a single question then, not whether, instead of commencing and completing one work at a time, as all admitted would have been the wisest course for the state, if it could have been effected, but whether the state should intrepidly attempt to execute the whole at once,—or, should see the whole at once abandoned. Though the course of wisdom was obvious enough, yet the obstacles to pursuing that course were rendered inveterate by local pertinacities—and no alternative was left.

It was a most embarrassing position, and the legislature after a long session and an elaborate discussion, during which every expedient to get on with

a part only, was faithfully tried, finally hesitated to decide, until they adjourned and went home to their constituents for express instructions upon the ultimate question, *whether the state should so far involve itself as to undertake the whole of those projects at once?* They took with them in their hands the project, denominated "*the eight millions bill,*" which amount of money was involved in their several estimates, and deliberated at home and amongst their own influential advisers, what in such a case ought to be done.

They returned to the extra session of 1836, with the distinct expression of the public voice. The people of Maryland deliberately instructed them to proceed with the improvements,—the law was passed, and Maryland decided at every hazard that those works of improvement should be completed.

Predicating upon this conclusion, the several internal improvement companies forthwith went to work and incurred heavy outlays in pushing on their enterprizes. All of them, with the exception of that of the Eastern Shore rail road, which was abandoned, are at this day either in operation, or

far progressing towards completion.

The course of several of them however have been strewed with difficulties. It had been the unfortunate fate of the Chesapeake and Ohio Canal company, for instance, to have its talented projector and presiding officer, Charles Fenton Mercer, displaced, and the office bestowed a person having no attachment to the enterprise, upon a partizan of his own, from a remote section of the union, altogether unacquainted with the duties required of such an officer, and indifferent, it is feared, to any thing but the perquisites of the office. Again and again it was the fortune of the same company to have their credit impaired by imputations upon the proceedings of those entrusted with the management of the company, and by long and labored investigations into their proceedings.— And finally, it was their hard destiny to have politics mixed up more or less with their administration, and obstructing their onward direction.

The principal embarrassments which occurred however were common to the whole of their projects, and originated in the difficulties which were unex-

rectedly found in obtaining funds upon the credit of the state on the terms which the law prescribed. At the moment the law passed, or at any time before, there would have been no difficulty in obtaining funds at those rates, but the untoward circumstances to which the monetary concerns of both Europe and America were suddenly reduced in that year,—the failure of the banks to continue specie payments; the depreciation of American securities and of the value of all stocks—the general impairing of credit, all operated to increase the difficulty of obtaining funds. It was at length found indispensable to resort to direct taxation in order to insure the faith of the state and to sustain its credit.

When the legislature of Maryland first harmonized her conflicting parties local and political, in behalf of internal improvements, which happened in the session of 1821-2,—and before any works were commenced, they very prudently determined to prepare for the enterprise by levying taxes to sustain the treasury during the progress of their undertaking. The product of those taxes amounted to about \$100,000.

600 per annum.

This precaution however was abandoned two or three years afterwards, under the persuasion that it would be practicable to effect the improvements without the necessity of resorting to a tax upon the people. Had the state confined its operations to a single enterprise, and completed one before entering upon another project, there is no doubt that all the projects could have been accomplished one after another, and at far less expense than they will eventually cost. But such were the inveterate difficulties, which surrounded the projects, that though all admitted that this would be the course of prudence, it was utterly in vain to attempt to control the case. The old local interests remained inflexible. Potomac *should not* have her canal, unless Baltimore had her rail road, and Susquehanna her side water canal and rail road also—and so on. All must go on at once, or none should go. And onward they all went, still full of hope and buoyant with expectations.

But the trying time was to come. In almost every such undertaking there is much aidor in the commencement,

which becomes exhausted whilst encountering those difficulties that are inseparable from great works. Mistakes, mismanagement, disappointment as to locality, thousands of objections start up, and even the patient and persevering friends of the enterprize are worn out with embarrassments which surround their progress. And the crisis at last arrives when it is discovered that the original estimates of cost will be considerably exceeded—their funds already exhausted—their credit at a large discount, and the public impatient at the delays which they have been unable to avoid. The interest, in the meantime, upon the amount already expended, accumulates heavily, and has to be provided for, as well as the means wherewith to progress in the remaining work. Delay is rendered exceedingly expensive—and to get on becomes every hour more and more difficult.

One more manly effort would probably complete the enterprize. That effort required that the legislature should sustain the credit of the state for the occasion by an efficient direct tax. The people of Maryland hardly hesitated.

A large majority in each branch of the legislature acquiesced in the necessity; a new assessment of the whole of the property within the state was directed to be made, and a tax, considered adequate to the exigency, has been levied upon the people. In the year 1841 the Tax Bill was passed, though it was several years before it was got into efficient operation.

The following statement will give a general idea of the extent and the cost of the Internal Improvement System in Maryland:

COST OF THE INTERNAL IMPROVEMENTS OF MARYLAND.

The *Chesapeake and Ohio Canal* is 184 miles long, cost the sum of \$12,370,470 and has even in its present unfinished state an average income of some 50 or \$60,000.

The *Tide Water Canal* is 45 miles long, and cost \$2,900,000.

The *Port Deposit Canal* is 10 miles long, and cost \$200,000.

The *Baltimore and Ohio Rail Road* is 188 miles long and cost some 6 or \$7,000,000. Its income in 1844 was \$658,620 and its net profit \$346,946.

The *Baltimore and Washington Rail Road* is 38 miles long, and cost 3,000,000 and its income in 1844 was \$212,129 of which \$101,529 was nett.

The *Baltimore and Susquehanna Rail Road* is 58 miles long and cost \$7,623,600.

The *Annapolis and Elk Ridge Rail Road* is 20 1/2 miles in length and cost \$414,435, 60.

CHAPTER IV.

THE JUDICIARY OF MARYLAND.

As much attention has been turned of late to the subject of the Judiciary of Maryland, we give the following statement, which we copy from the Md. Rep., of the relative cost of the Judiciary of Maryland, and of other states, by which the reader will be able to judge of the relative merits of this system in our state and in other states.

At the session of the Legislature of Maryland in 1844-5, the clerk of the House of Delegates was ordered to correspond with other States for the purpose of obtaining information as to the enable the Legislature to determine Judiciary expenses of those States, so as to whether the Judiciary system of Md. was so much more expensive than that of other states as to require reform.

Answers were received from the States of New York, Pennsylvania, Virginia and Ohio, which will be found among the public documents of the last

session of the Legislature, marked J:

And from these we learn the following facts in regard to the comparative expense of the Judiciary of Maryland and of those states.

The cost of the Judiciary of Maryland according to a statement prepared at the Treasury, is 36,770.

This includes every dollar paid out of the Treasury or otherwise, on that account, our system authorising no indirect or incidental payment to the Judges of any description whatever. They receive certain fixed salaries except the Judges of Baltimore County Court, who, in consideration of the court, are allowed a certain proportion enormous amount of business in that of the tax on Judicial proceeding.

In New York the amount paid on account of the Judiciary including the court of Errors, is \$53,930.

These sums are paid out of the Treasury, but independently of them, the Chancellor, the Vice Chancellors, the assistant Chancellor, and the Judges of the Circuit, and of the Supreme Court, are allowed Chamber fees, the amount of which we have no means of precisely ascertaining, but they are in

some instances, understood to be considerable.

But this is not all. In *each* of the fifty nine counties of the State, there are five Judges of the county courts who each receive \$2 per day for every day these courts are in session. In addition to which, there are in the city of New York six Judges, who are paid salaries by the city.

It is not easy to say, how much the compensation paid to these county, and city Judges, increases the aggregate expense, of the Judiciary of New York; but looking to the size, and population of their counties, it must very largely augment it.

The number of County Court Judges is 295, (being five times 59,) and they each receive, as we have seen, a per diem allowance of \$2, being equal to \$590 per day.

Assuming that these Judges set two hundred days in the year, which is not an extravagant assumption, when the territorial extent and population of their counties is considered, and the cost of this branch of their system alone, is

\$118,000

Which added to the sum paid

the Chancellors, &c., as al-
ready stated of

53,930

Makes, \$171,930
besides the Chamber fees, and the salaries of the city Judges, of whom there are six.

Now notwithstanding this statement, founded upon official and unquestionable documents, the advocates for Judicial reform, will still be heard, as they have long been heard, saying that our system costs more than is paid, in the Empire State of New York.

It appears by the same document, that the cost of the Judiciary system of Virginia, exclusive of Magistrates courts is \$74,350, in addition to which, the Judges of the Courts of Appeals, and of the General Court, (of whom there are 27,) receive a mileage allowance of 20 cents a mile, for every mile they travel, in going to and returning from court.

In Pennsylvania the Judiciary Department costs \$99,744.50; and in Ohio independently of the sums paid to the Associate or Probate Judges, (the amount of which is not given,) the salaries paid to the Judges of the courts of

Common Pleas, and the Judges of the Supreme and Superiour courts, are stated at \$25,251 25.

The same writer in commenting further on the cost of the Judiciary in Maryland, says:

Our object however in adverting to this subject, is to show, that the greater portion of the amount which is paid from the treasury to the Maryland Judiciary is in fact placed in the treasury by revenue derived from the courts.— The amount which is paid out of the treasury to the Judges is \$36,548 67.

We find by an examination of the last report of the treasury that there was received during the last year—

For taxes in Chancery	674 32
For taxes on plaintiffs	5,772 25
For fines, forfeitures and a- mercements	4,414 92

The treasurer has received or should have received for the current year for the tax on the commissions of Judges, Clerk and Registers

1,850 00

The income tax on Clerks and Registers, at $2\frac{1}{2}$ per cent on the amount returned

by them to the last Legislature as their incomes will be

1,114 22

For the tax imposed by laws of last session on Clerks and Registers

10,000.00

Making a revenue directly derived from the judicial

action of our courts of \$23,825 71

Without adding other sources of revenue which might be fairly credited as derived from the judiciary, we find the amount received from the treasury by the judges over the amount placed in the treasury by their action is \$12,722.96

CHAPTER V.

EDUCATION.

When it is considered that the Education of the people is the only safe basis upon which any republican government can rest in security, it will at once occur to every mind, that it is not only expedient, but also essentially necessary that the cultivation of the mind of the youth who are to become the future citizens of a country should be one of the principal objects of attention to every wise government.

It may then be well enquired, what has Maryland done and what is she now doing towards the education of her citizens?

According to the census of 1840 the number of persons in Maryland, who could not read nor write was 11,817.

In 1825, a law was passed for the Introduction of Primary Schools under systematic rules and regulations into the State. This law has been adopted in many of the counties of the state,

and acted upon with success.

Soon after its passage the law went into operation in Anne Arundle county

In 1838 it was first put into operation in Frederick Coun'y.

The means appropriated by the State of Maryland for Education consists as follows:—

1st. The "ACADEMY FUND"—This is an appropriation of some \$800 or thereabout, which has been granted by the state for the benefit of an Academy in each County of the State, and which is a charge upon *the Treasury at large*, having been granted first to one county and then to another, as the occasion might call for it, untill finally each county seems to have a prescriptive right to this amount, for its high school. The amount thus paid annually by the State is now about \$19,600,00 as per the Treasurer's Report of 1844-5.

This fund is appropriated as follows:

To St. John's College	\$3,000,00.
"Each county \$800	16,000,00.
"Brookville Academy	200,00.
"Rev. John McElroy, Fred.	400,00.

\$19,600,00.

And the Institution to which the funds may be given is bound to educate one poor scholar for each hundred dollars given to it.

We may also here remark that, in addition to the funds thus bestowed by the State, the Legislature has frequently made grants of Lotteries, and other pecuniary advantages, such as freedom from Taxation &c., for the benefit of Literary Institutions.

It granted at one time a Lottery of 20,000 to St. John's College, and also a Lottery of \$50,000 to the Frederiek Female Academy.

ST. JOHN'S COLLEGE. We may also remark under this head that immediately on the close of the Revolutionary war, an endowment of St. John's College was made by a large appropriation annually thereto. During high party times this donation was withdrawn and the college illegally deprived of it. But subsequently, on a calm representation of the facts, an appropriation of \$3,000 annually was made to the College, provided she would relinquish all claims upon the State for the original grant and have the same recorded in the court of Appeals. This

was accordingly done.

2. The "FREE SCHOOL FUND." This is a distinct Fund from the above, and was commenced somewhere about the year 1815, when the State, upon chartering the banks, required of them to pay a *bonus* for their charters which was to be appropriated for the purposes of education.

At the same time that the banks paid this sum, they were also further required, as a part of their *bonus* to make a Turnpike Road from the Conococheague to Cumberland.

As this Turnpike enured principally to the benefit of the western counties of the State, it was agreed that the part paid by the banks to the school fund, should be annually and *equally* divided between the several counties of the state and the city of Baltimore.

This fund has been managed by the State and invested by it in bank stock, as a "Capital" for the benefit of the several counties. And from this Capital, amounting in 1844 to the sum of \$159,108 48, the proceeds are paid over annually as required to the several counties for the benefit of their Free Schools.

Further;—when the State received from the General Government its share of the *Surplus Fund* it was appropriated (1839 ch. 33.) to the benefit of the Free Schools of the state. The State afterwards having occasion to borrow this money, the same amount was returned from the proceeds of the Balt. and Washington Rail Road on which it is now a charge.

One Thousand Dollars of the interest of this surplus fund was appropriated for the education of the Indigent Blind of the State; and the remainder is distributed, one half equally between the several counties and the City of Baltimore, and the other half between the same according to their respective population.

From the interest of this fund there was paid in the year 1844 the sum of \$34,069,36 to the benefit of the Free Schools of the State.

Altogether in 1844 the Treasurer of the State received for the Free Schools Fund \$63,808 65; and disbursed to the counties the sum of \$67,333 96.— (*Treas. Report pp. 13.*)

This School Fund is paid over by the Treasurer to the School commissioners

of those counties where there are such officers, and in other counties to the commissioners of the Tax or Levy Court, and it is by them distributed as they judge best, either equally among the Schools, or unequally according to the population.

The State also appropriates for the Education of its DEAF and DUMB the sum of \$3000.

The COUNTY TAX.—In addition to the amount received from the State both for its "Academies" and for its "Free Schools" many of the counties have the power to lay a further Tax, through their Levy Courts, so as to enable them to carry out the system of Primary Education.

In Frederick County the sum of \$8000 is usually levied on the county at large for the benefit of the schools. And also, in this county, at the discretion of the Trustees, the sum of 25 cents per month is levied on each pupil, who is able to pay.

The funds thus derived from the State, the County, and the moderate tax on the pupil, constitute the means of support of the Primary School System of Maryland.

From this detail it will be seen that a liberal and beneficent policy is pursued by Maryland, hampered as she is with debt, for the fostering of Education. For besides the aid that she has extended towards the University of Maryland, at Baltimore, she has liberally endowed St. John's College at Annapolis, an Academy in each County of the State, and has also freely lent her hand of assistance towards the aid of the Free Schools of each county, thus providing for the education of all classes and grades of her citizens.

CHAPTER VI.

CENSUS OF MARYLAND FOR 1840, As published by the Marshal.

	Wh tes	Free blacks	Slaves,	Total population
Al'y.	14,777	216	811	15,704
Wash.	27,733	1,556	2,505	28,792
Fred.	27,575	2,987	4,420	34,982
Carroll	15,223	895	1,120	17,238
Balt.	24,184	3,478	4,400	32,062
Harf'd.	12,065	2,449	1,537	17,051
Mont.*	8,280	1,240	5,127	14,647
P. G.	7,832	1,080	10,640	19,552
St. M.	6,051	1,413	5,757	13,227
Cal.	3,564	1,292	4,401	9,355
Char.	5,988	817	9,280	16,093
A. A.	14,597	5,120	9,816	29,531
Cecil,	13,351	2,552	1,346	17,249
Kent,	5,618	2,486	2,741	10,845
Car.	5,373	1,727	776	7,876
Talbot	6,054	2,336	3,698	12,088
Q. A.	6,109	2,540	9,979	12,628
Som,	11,563	2,645	5,395	19,603
Dor.	10,647	3,965	4,232	18,844
Wor.	11,643	3,063	3,543	18,249
B City	81,317	17,980	3,212	102,509
	316,544	61,837	89,736	468,127

*By an act of Congress, the census of this county was ordered to be retaken, on account of not being complete.

The aggregate increase of the population of the state within the last fifty years has been 148,399 or an average of very nearly 3,000 per year.

The city of Baltimore alone, has increased in population within the last fifty years from 13,503 to 102,509, say 89,006, leaving 59,393 increase for the residue of the state.

The population of the Eastern and Western Shores from 1790 to 1840, inclusive, are as follows:

Eastern Shore 1790, 107,638; 1800, 112,536—1810, 117,121—1820, 115,639—1830, 119,582—1840, 117,382.

Western Shore—1790, 262,089; 1800, 267,156; 1810, 263,435—1820, 291,711—1830, 327,464; 1840, 350,745.

It will be perceived that the population of the Eastern Shore within the last fifty years has only increased 9,744, or nine per cent.—and that within the last ten years the population of that shore has diminished 2,200, or about two per cent.

The population of the Western Shore, has in the last fifty years, increased 148,654—and in the last ten years 23,281.

Aggregates of whites, free colored, and slaves under each census from 1790 to 1840.

In 1790, whites, 208,649, free colored, 8,043 slaves, 103,036—total 219,728.

In 1800, whites, 216,356, free colored, 19,587, slaves, 105,635—total 341,578. Increase in ten years, 21,850.

In 1810, whites, 235,117, free colored, 33,927, slaves, 111,532—total 380,546. Increase in ten years, 38,968.

In 1820, whites, 255,622—free colored 44,730, slaves, 106,998—total 407,350. Increase

in ten years, 26,804.

In 1830, whites, 291,108—free colored, 52,938, slaves, 102,994. Total 447,040. Increase in ten years 39,690.

In 1840, whites, 316,544—free colored, 64,837, slaves, 89,736—total 468,117. Increase in ten years, 21,077.

The proportion of whites to the colored population in the year 1755, was 23 whites, to one colored, in 1790 it was 1.88, in 1800, 1.75 to one; in 1810, 1.62, in 1820, 1.77—in 1830, 1.88—in 1840, it was 2.088-100 whites to one colored person.

The condition of the colored population, has however, during this period undergone a very material change. Sixty years ago, nearly all the descendants of Africa within the state were slaves. In 1790, not quite one out of every fourteen were free. In thirty years from that period, (1820.) the number of free had increased to 44,730, and bore the proportion of considerably more than one-fourth of the total number of their race in the state. During the same period, the entire increase of the slaves, was but 3,968, being less than four per cent. In 1830, more than one-third of the colored people of the state were free, and in 1840, the proportion of free colored to the slaves was as 61 to 89—approximating one-half.

CHAPTER VII.

COLORED POPULATION—COLONIZATION.

The *original* project of the founders of the Maryland Colonization Society was, by a gradual yet certain process, to relieve the state *entirely* of its whole colored population, both free and slave, with their own consent. And this was to be effected, first by removing the free blacks, offering them a free passage at the expense of the Society, and then by gradually promoting the liberation of the slaves, and removing *them*.

Up to the time of a change which was recently made in the laws of Maryland, in no State of the Union had emancipation so rapidly progressed, and in fact, in no state of the Union, at present, is there so large a number of free colored people as in Maryland.

But since the year 1831, the legal policy of the State has been to check emancipation as much as possible by

prohibiting the freeing of slaves, unless on the condition of their leaving the State, and also to lessen the free colored population by prohibiting immigration into the State.

According to the last census, in (1840,) the number of whites in our state were 316,544; free colored 64,837 slaves 89,736; Total 468 117.

The proportion of *free colored* population in our state has been continually on the increase. Thus, in 1790 it was 8,043; in 1800, 19,587; in 1810, 33,927; in 1820; 44,730, in 1830, 52,938;—in 1840, 64,837.

Whereas, the *slave* population arrived at its maximum in 1810, after which it began to decline. Thus; in 1790 it was 103, 036; in 1800, 105,635; in 1810, 111,532; in 1820, 106,998; in 1830, 102,994: in 1840 it was 89,736.

In 1830 more than one third of the colored population of the state were free; and in 1840 the proportion of free colored to the slaves was as 61 to 89—approximating one half. The slaves in the state have *diminished* within the last ten years 12,158 or over 12 per. ct.

The proportion of whites to the colored population through successive

years has stood as follows:—In the year 1755 there was 2.3 white to one colored; in 1790 it was 1.88; in 1800 it was 1.75; in 1810, 1.62; in 1820, 1.77; in 1830, 1.88; in 1840, it was 2.088.100 whites to one colored person, more than double; so that it will be seen that the proportion of whites to the black is rather increasing.

Now as to the increase of the *free blacks* in the state it has been, during the last ten years 8,899 and in the last thirty years 27,910—being an average of over 900 per year (while the *decrease* of the *slaves* has been over 12 per ct. per year.)

But *the entire* colored population of the State has diminished from 1830 to 1840, 3,359—being over two per cent. And during the same time, the white population has increased eight and three quarter per cent.

It will be thus observed that while the white population is considerably increasing, and the free colored population also increasing at the average rate of about 900 per year, that the slave population is greatly drained off by the higher price that they command in the southern markets, and by their remov-

al from the State without the privilege of a return.

The *tendency* then of affairs in Maryland has been towards an *increase* of the free colored population and a *decrease* of the slave population, and a *decrease* also of the *entire* colored population.

A very important question here arises as to what is the true *policy* of Maryland?

Is it to *check* this tendency to a conversion of the entire colored population of the state into a *free* population; or is it to promote the increase of the *free* population at the expense of the *slave* population?

Is it *desirable* that there should be a *mixed* population of free and slave in the state? or rather, to have it *all free*? or to have *all slaves*, as the operation of the law, (except so far as it is counteracted by the natural increase of the free colored population) now tends to make it? If it be not desirable to have a population mixed of free and slave, (and all seem to complain of its corrupting influence) then, which would be the most beneficial to Maryland, to have an entire *free* colored population,

or an entire slave colored population?

We say that this is an important question to be decided, for this reason; because, if *Colonization* is the policy of the state, of course the blacks *must be freed* or else *be bought* out before it, (the colonization scheme,) can entirely relieve the state of its colored population. And the policy of the law therefore, should be, to encourage freedom rather than slavery.

Indeed the sacrifices always made by Maryland for the promotion of Colonization, & the steadfastness with which through a series of years, she has adhered to that policy, shows how dear is to her the great object which she expects to eventually accomplish by it, and the certain though gradual change which she contemplates being able to effect in the character of her population in finally rendering it of an entirely homogeneous character.

The fact that Colonization is looked upon in Maryland as the great antidote to the mad schemes of the abolitionists is what endears it still more to the people of our State.

Yet notwithstanding the tax annually paid by the people to carry out the Col-

anization scheme, emancipation is not now the policy;—the law of 1831, (which is much disregarded) *prohibiting* the liberation of slaves within the borders of the State, except upon certain extraordinary conditions. It was about the year 1831 that the State adopted the policy of prohibiting manumission, except in extraordinary cases, or on condition of the persons who should be so manumitted, leaving the state; and also of prohibiting entirely the introduction of colored persons, free or slaves, into the state.

The whole *increase* of the free colored population therefore, arises, from this *natural* increase alone and not by immigration; and the drain *from* the state, of the slave population, is faster, by sale and other causes, *as a slave* population, than it would be, by colonization, if free.

The State seems therefore to have adopted the policy of encouraging the existence of a sufficient number of the free colored population *to colonize from*, at the same time that, keeping steadily in view the ultimate object of at last *entirely* disburdening the State of this kind of population, it allows the more

rapid process of extinction to go on; by the quiet *removal* of the slaves from the State by the strong and overruling motives of self interest.

The steady, settled, definite object then of those patriotic sons of Maryland to whom we owe the beneficent scheme of Maryland Colonization, has been, to enroll Maryland, if gradually, yet certainly, with those States North of Mason's and Dixon's line. And, the fact of Maryland's being a border State, where the black hue first faintly mingles with and fades into the white, and the further fact of the steady legislation of Maryland tending towards this end, and that the scheme of Colonization also furthers and promotes this object, gives encouragement to the hope that what has been considered one of the greatest obstacles to the advancement of our State in prosperity will at length be removed, and that she will then take side, in increase of population and of wealth, with the most favored of her sister confederates.

If then the existence of a mixed population of free and slave must, from the policy of Maryland, still be tolerated, notwithstanding the corrupting influ-

ence that they exercise upon each other, it might well become a question worthy of the consideration of statesmen and philanthropists, whether something more could not now be done to improve and ameliorate the condition of the free blacks of the State, by preparing them for the contemplated change, by substituting, even in *this* country, habits of industry for those of idleness, of regularity for disorder, of neatness and exertion for sloth and indolence, of steady labor and sobriety for loafing and drunkenness, and by encouraging a cultivation of the moral faculties and the formation of a character to be depended upon and trusted to, in place of the petty, pilfering, trifling, indolent and lazy habits which so extensively prevail among them to the destruction of their comfort, ~~to~~ their wealth, their lives, and to the loss of much wealth and labor to the public.

COLONIZATION.

In 1831 (ch 281) the Legislature of Maryland appropriated the sum of \$10,000 per year for the promotion of colonization, and appointed a Board of Managers to carry out their beneficent views. In addition to this, private

collections have also been taken up and have generally varied from 2 to \$10,000 per year

This Board, in 1832, first sent 150 emigrants from the Eastern Shore, to the Colony of Monrovia, in Africa.— In 1834 it was determined to form the new settlement of *Maryland in Liberia*, at Cape Palmas. In 1837 this Colony consisted of more than 300 persons, and was in a flourishing condition.— Up to the year 1841, the sum expended by the Society in founding the Colony, had been about 127 thousand dollars, of which sum 76 thousand had been paid by the State Colonization fund, and 32 thousand by private individuals. From 1831 to 1839 the Society had sent out 14 expeditions containing 634 emigrants, being about two thirds of the annual increase of one year.

The effort of the Society has been to establish a regular Packet and to induce the colored people of the State by a sense of their own interest, and a demonstration of the advantage of a change, to make the emigration by which they would be so much benefitted

The question then as to whether, by

this slow process, this whole population can be removed is an interesting one which is now being resolved, but which we have not time now to consider, or comment upon, as this article has already spread out to a much greater length, under our hands, than was intended.

CHAPTER VIII.

TRADES AND EMPLOYMENTS.

We abridge from the Census of 1844 the following statement of the numbers of persons occupied in the different trades and employments in Maryland.

Persons.

There are in the State, engaged in Mining	287
in Agriculture	68,080
in Commerce	3,172
in Manufactures and Trades	21,988
in Navigation of the Ocean	718
Navigation of Canals, Lakes and Rivers	1,500
Learned Professions and Engineers	1,608
There are in the State, 11 Universities or Colleges, with 813 Students.	
122 Academies and Grammar Schools, with 4,158, Scholars.	
562, Primary and Common Schools, with 16,321, Scholars.	
6,621 Scholars at Public charge.	
11,580 <i>White persons over 20 years of age, who cannot read and write.</i>	

CHAPTER IX.

TAX ASSESSMENT OF THE STATE.

Previous to the assessment law of 1841, the last report to the Treasurer of the State exhibits the value of the property in the different counties of the State at \$100,391,732,23; but as the mode of valuation was principally directed under the act of 1785 and 1797, the proportion of the property in one part of the state to that in another, or in fact, the *real* value of the property in any part of the State was not at all ascertained by this mode of assessment.

By the valuation however, under the Tax law of 1841 according to which the taxes have been since levied a nearer approach to the value of the property in the different counties of the State may be obtained, and we therefore annex it below. It shows the whole value of the property in Maryland to be somewhat short of two hundred millions of dollars :—

Allegany county, - -	\$4,008,586
Anne A. county, - -	6,915,014
Baltimore city, - -	66,426,711
Baltimore county, - -	13,666,232
Calvert county, - -	2,945,400
Caroline county, - -	1,407,628
Carroll county, - -	6,911,250
Cecil county, - - -	5,055,720
Charles county, - -	5,472,920
Dorchester county, -	4,265,741
Frederick county, - -	19,081,687
Harford county, - -	4,839,901
Kent county, - - -	3,672,391
Montgomery county -	5,102,070
P. George's county -	9,875,047
Queen Ann's county, -	4,315,327
St. Mary's county, -	4,359,048
Somerset county, -	3,315,327
Talbot county, - -	4,759,147
Washington county, -	12,723,954
Worcester county, -	3,584,071

But this statement of the wealth of the state probably falls considerably below its real value.

2115





LIBRARY OF CONGRESS



0 014 313 729 6